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THE TRIAL OF JESUS

Mart in N.Y.

THE TRIAL OF JESUS

BY

GIOVANNI ROSADI

DEPUTATO TO THE ITALIAN PARLIAMENT AND
ADVOCATE TO THE COURT OF TUSCANY

EDITED, WITH A PREFACE, BY

DR. EMIL REICH

AUTHOR OF
"SUCCESS AMONG NATIONS," "FOUNDATIONS OF MODERN
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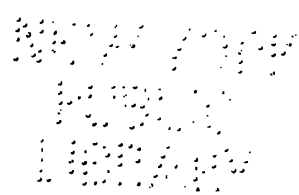

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PREFACE

In August last I happened to hear, almost immediately after its publication, of the present work on the trial of Jesus. Ever anxious to learn what Italian thinkers have to say in all matters of human interest, I hastened to acquire the book, and read it with avidity. It has long been my conviction that in the history of Jesus is indicated and revealed the history of all humanity. The history of The Man is the history of man. No age, no single historian can tell the last word of this unique story. Each generation wants its own Life of Jesus; for in each generation new, or partially new, human forces are shaping new phenomena of goodness and wickedness, of greatness and misery. Whatever new or formally new features may rise on the moral horizon of humanity, we may always be sure that it is within the Sphere of that Sun that for close on sixty generations has been the centre of our ethical and religious system. The depths and endless vistas in the Life of Jesus are such as to necessitate a study of His time from the most varied standpoints.

Unfortunately for a true comprehension of Jesus as a purely historical phenomenon, let alone as *the* religious Fact and Impulse, the study of the New Testament has in the last seventy to eighty years fallen into the hands of the so-called "higher critics," in whose criticism there is nothing high, and in whose heights there is nothing critical. They are philologians; and that alone condemns them as historians generally, and places them absolutely

out of court as historians of Christianity. The philologian, whose means and habits of research are taken from the study of languages, is and must be naturally averse to a belief in personality. Languages, indeed, have not been produced by single personalities; and no one syntactic construction, such as the *ablativus absolutus*, or any other linguistic institution of Latin or Greek or Hebrew, can be traced back to the influence of a single great personality. In Christianity, on the other hand, everything emanates from and comes back to one central Personality. Reduce or obliterate that Personality, and you have reduced or obliterated the whole of Christianity.

This is not the place to show that all ancient polities of the classical type are necessarily based and grafted upon an initial and final Personality. To the sober student of History and Religion there can be no doubt whatever that while, for instance, the existence of the Spartan state or the Hebrew state may be considered only as an historic necessity, the existence of Lycurgus and Moses are facts of psychological necessity. In the case of Christianity this irresistible psychological inference from present Christianity to its Founder, that is, to the surpassing Personality of Jesus, becomes almost a logical necessity. If we should lose every scrap of written or monumental evidence from the first century of our era, just as we have lost all contemporary evidence of Lycurgus or Moses, the very fact of Christianity as existing to-day ought to suffice to prove the existence of a Founder endowed with a unique and altogether extraordinary personality.

All these manifest truths, proved by the most sceptical and "objective" study of the past, are contemptuously ignored by the pedants who have so long imposed upon people who affect to be stunned by a display of learned footnotes in a dozen old languages. It is now high time to

proclaim that "higher criticism," whether applied to Greek and Latin classics or to the Old and New Testament, has proved an amazing blunder. Nor can that be otherwise. When institutions the very heart, the very essence of which consists of Personality, are studied, analysed, and criticised by people who by their professional training have long incapacitated themselves for any mental attitude enabling us to appreciate adequately the nature and effect of Personality, the result can be nothing short of absolute failure. If Bentley had essayed to write a history of Greek art, he would have covered himself with ridicule. So have the too numerous German, Dutch, French, and English scholars who, with an appearance of systematic precision, have invaded every syllable of the New Testament, and who, after driving out from each dwelling-place of the text whatever spiritual or human element there is in it, solemnly declare that the New Testament is a mere story-book, Christ a myth, and Christianity a fraud.

The reaction is setting in. People learning from real scholars, such as Mr. Kenyon, of the British Museum, how inept and pointless have been most of the admired philological *tours de force* of the great "emendators" of Greek and Roman classics, are prepared to assume that the amazing "higher critics," who, with solemn divining-rods, have torn the Pentateuch and other parts of the Bible into shreds belonging to different "sources," are not a whit better than their colleagues. Higher criticism has done harm, but, forsooth, not to the Bible, but to the critics themselves. Whatever sciolists and pedants may say in their numerous journals and periodicals, it remains certain that higher critics have not contributed anything essential towards a true historical construction of the greatest figure of History.

A new and deep comprehension of the Great Phenom-

enon is required. The cravings of the mass of humanity are still unsatisfied. They want a new life, and they feel that it will flow principally from a new consideration of the life of Him who has vitalised and spiritualised the great institutions of the past. This new life of Jesus, in its totality, can as yet not be written. Mountains of prejudices and erudite sandhills have to be removed first. Meanwhile, we must be grateful to any one who has, at the cost of much disinterested study, drawn at least one aspect of that unique Life in the spirit of true research and genuine enthusiasm for his subject.

Such a book is the present. Signor Rosadi has approached his problem—apparently a purely legal one—with a warmth of sympathy, with a breadth of philosophical view, with a purity of religious sentiment that have rendered his book not only a noteworthy contribution to the history of Jesus, but a stimulating and (we say it unhesitatingly) an edifying work in the best sense of the word. It is to be hoped that few people whose Christianity is not a mere formula to them will leave this book unread. It is one of those great preliminary studies that may, in the end, enable us to see in its entirety the immense force of Goodness and Greatness embodied in Him whose name is constantly on our lips, and whom we yet know so little.

EMIL REICH.

LONDON, *November* 15, 1904.

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THE TRIAL OF JESUS

The Trial of Jesus

CHAPTER I

The Great Injustice of the Trial of Jesus—Long Impunity of the Accused—His Times—The Prophets—The Sects of Palestine: the Pharisees; the Sadducees; the Essenes; the Therapeutics—The Rabbis and the other Zealots of Israel—Popular Agitation against Heresy, the Tribute, and Taxation, the Inobservance of the Law—The Good News of Jesus—A Complete Social Revolution—Cause of his Impunity.

In the year of Rome 783, a carpenter of Nazareth was arrested at Gethsemane, tried at Jerusalem, and put to death on Golgotha as guilty of sedition.

Grasping priests denounced Him, false witnesses accused Him, judges of bad faith condemned Him; a friend betrayed Him; no one defended Him; He was dragged with every kind of contumely and violence to the malefactor's cross, where He spoke the last words of truth and brotherhood among men. It was one of the greatest and the most memorable acts of injustice.

For centuries it will afford to thinkers and believers subject for meditation, as the human and divine problem; people of every race and every faith will demand vengeance for it; the prisoner of Gethsemane will be for ever unified with God, and the very cross of His infamy will become the purest and the highest symbol of hope and revolution.

His kingdom was not of this
tribute due to Cæsar and was
had frequently spoken again
Pharisees, which manifested i
vention; sometimes He assaile
law as leading to nothing but
hood; and He had cried still l
while announcing to the poor
their condition. He had count
quity of the earth, and promise
a contrast the happiness and the
propaganda of ideas and desig
tasteful, as it was, to the grea
people, interested in the welfare
and could only transgress, as i
gress, its laws, which were ill in
politics and the delirium of supe
has always claimed two victims,
and has never overthrown two
and calumny.

Jesus—as the innocent victim
—had therefore to die.

And in our day, any one spe
and favour, and even gifted with
would rather be likely to fall a

safety, as we now call it; he would be warned, under the suspicion that he contemplated the commission of political offences, as is also customarily done; he would be sent into forced domicile, as at present; and even his friendly consorting with twelve followers of the new idea would be denounced as an association of malefactors —all most admirable devices which nineteen centuries of continuous and strenuous progress have generously bestowed upon worn-out humanity. Jesus was not greatly disturbed during His open and fearless mission, although never lost sight of and always marked for the cross.

And yet, even those days were not tranquil and happy! The Hebrew people—converted too late from the nomadic life to national life, and passing too quickly from the patriarchal state of a spontaneous and suitable equality to the juridical system, in the first place, of property vested in the family and then in the individual —lived in a condition of great tension from the captivity of Babylon to the Roman conquest. Egoist, sophistical, conservative, and superstitious, it was with bitter feelings that the Hebrew people saw commerce and wealth develop and the luxury of Tyre and Babylon penetrate into Israel. It grieved their souls to see thousands of men toiling in the caves of Judah, in the forests of Lebanon, and in the galleys of Oman in order to procure for a few idlers the ease and luxury of the towns, and for some libertines the pleasures and diversions of obscene harems. They saw with indignation that when Rome made a new province out of their country, the Jewish aristocratic class sided with the sacrilegious and idolatrous conquerors, while the mass of the people, remaining faithful to the old traditions, manifested the same hatred against aristocrats and strangers alike.[2]

And lo! in the midst of this grief-stricken people

prophets arose from day to day who directed the fervour of hope and the gesture of invocation towards a new era, not only of political, but human regeneration; a state of perfect innocence and universal palingenesis; a golden age, not to be sought as by the peoples of classic antiquity in the past, but to be expected in a distant future, foretold in canticles and visions, in suffering and in faith;[3] and the Israelitish prophets, observes Ernest Renan in his historical work—much more authoritative than his eccentric biography of Jesus—were ardent publicists of the kind now called anarchists, fanatics on behalf of social justice and solemnly proclaiming that if the world is neither just nor likely to become so, then it were better destroyed—a point of view no doubt very false, but still fruitful of results, since, like all desperate doctrines, like the Russian Nihilism of our own day, it tends to produce heroism and a great awakening of human forces.[4]

The prophets were the speakers of the various tendencies in action. The word designating them only meant orator, and the faculty of divination commonly attributed to the prophetic vocation as synonymous with it was only secondary and accessory. According to biblical tradition, Moses lacked fluency of speech, and God associated his brother Aaron with him as prophet.[5] Miriam was called prophetess when she went singing and playing on the cithara the immortal song of victory.[6] The prophets represented liberty of speech as in our day the press represents liberty of opinion. It burst forth, unprepared, unforeseen, undisciplined like genius; it was the genius of the popular conscience. A prophet showed himself in public places, on the threshold of the temple, before the people, among the priests, at the foot of the throne, and animadverted freely upon things and persons. His right was founded in the law which fixed

one sole limit to his liberty—respect for the monotheistic idea and for the name of Jehovah.

Uncompromising above all, more Israelitish than[7] Moses, the Pharisees formed a Gnostic sect, the strongest and yet the most dangerous privileged commentator of traditional truth. Claiming to be exclusive depositaries of the moral tradition received by Moses on Mount Sinai, the Pharisees also claimed to be alone able to interpret the signification of the sacred texts, and violently opposed any who gave them a different interpretation, whereas among other sects the right of free interpretation was admitted. Sophists, pedants, hypocrites, factious formalists and formulists, and of a grasping nature, they studied only to obscure the law, which in their hands became the worst weapon of persecution and imposture. They believed in the struggle between the empire of good and that of evil, and regarded as a particular domain of evil the hegemony of Rome over their nation, not from any spirit of independence and dignity, but solely because they perceived in it a permanent sin of idolatry. They appeared in public with their faces covered, some, indeed, with closed eyes, in order to see no woman—while others, by way of showing extreme contrition daubed themselves with fœtid bitumen. All prayed in public, taking the first places in the synagogues and giving alms by sound of trumpet, a practice with which Jesus, in His memorable words, one day reproached them.[8]

Less fanatical and more positive, the Sadducees repudiated tradition and observed the written law with discretion. They thought that God did not intervene overmuch in the affairs of men, and supposed that the soul died with the body, although that did not prevent the principal priests of the temple of Jerusalem from belonging to this sect. They accepted foreign domina-

tion as a means of uniting Hebraic and foreign culture, noble examples of the latter having already been adopted by the Jewish school at Alexandria.[9]

Incomparably the best among all the sectaries, the Essenes formed one of those mystic schools based upon renunciation and community of goods. Devoted to the principle of Zoroaster that the soul should be freed from the trammels and influences of the body, they lived, retired from towns, in country places. They disciplined their bodies by fasting and mortifications, shunned trade and its corruptions, kept no slaves and gained no wealth, dedicating themselves to work and sharing the fruit of it in common. They disdained sophistical theology and studied natural science, medicine in the first place. Thus they made profession both of medicine and philanthropy, helping the sick and needy.[10]

Not very dissimilar, but nevertheless distinct from them, the Therapeutics based their origin on Western tradition transmitted by the Alexandrine and particularly by the Pythagorian school. More inclined to contemplation than to action, their rule differed from that of the Essenes, not so much by metaphysical speculation, as by a still more chastened mode of life.

The rabbis who taught in the synagogues, though not forming close sects but schools, did not confine themselves to didactic teaching, but held disputations concerning the civil and religious interpretation of the law, and contributed by their daily arguments to open up new horizons to popular hopes and superstitions. Antigon of Soco, Jesus son of Sirach, and above all the gentle and clear-sighted Hillel, who preceded the Nazarene by half a century, had already professed elevated ideas of equality and fraternity—of love of God and rest in Him —in contrast to the officialism and hypocrisy of the dominant form of worship.

And all these schools, sometimes differing and often completely at variance among themselves, sprang not only from the rôle of the prophet of antiquity, reconstituted in the Judaism of the later days, passing through the hazardous vicissitudes of the Herodian dynasty and the Roman conquest, not only from the foreign breeding of the Hebrew exiles returned to their country, but also from the particularly ascetic bent of the Hebrew people, which must be considered as a predisposing influence of no minor importance.

Those who may be acquainted with the localities of this history will have observed how natural characteristics of a singular kind harmonise with a singular people. "The saddest region in the world," says Renan, under the impression of a painful sojourn there, "is perhaps that which surrounds Jerusalem. Jewish towns are generally mere agglomerations of houses built without a trace of style, and the country is arid, poor, and dreary. Everything appears to be the work of an agricultural people devoid of artistic instinct, debarred from industry, indifferent to beauty of form, but solely and profoundly idealist. And just by reason of this singularity of nature the life of the Jewish people, egoist as it was, was not limited by the coarse and unthinking materialism of our own agriculturists, but became spiritualised in a continuous dream and in an indefinite ideal. Greek art, by means of poetry and sculpture, had already given the purest and most delicate images of life, but the stylus and chisel of the Greeks represented a nature without backgrounds, without distant horizons, without glimpses of heaven. There was no art whatever in Palestine, but, as compensation, this squalid and contemplative people clung to the gigantic vision of ages past—a vision which rejuvenated from day to day its decrepit life. "Man," says Renan, pur-

suing the same line of thought, "never grasped the problem of his destiny with more desperate courage or more resistless determination." [11]

Not all the Zealots, for whom Moses was the great exemplar, confined themselves to professing and inculcating their doctrines; the greater part of them gathered together in strong groups and elaborated dangerous plots often ending in revolt. A long series of Roman Governors from Coponius to Pilate vainly strove to drown in blood this fiery furnace, within which seethed the tears and sweat of a wretched people. But popular agitations were nearly all based upon some political or religious programme, and consequently resolved themselves into mere party struggles. One day heresy was assailed in connection with Herodian works of art, and the Roman votive shields which appeared to smack of idolatry, while the sect of Judah son of Sariphæus, and of Matthew son of Margaloth, put forth nothing but this slight programme. At another time fierce opposition was offered to the tribute law applied in the countries recently conquered by Rome—which was regarded as an impiety, inasmuch as no Lord could be recognised but God, and this was the sole argument used by the school of Judah of Gaulon. Others offered opposition to the legality of the tax, while one leader, Judah of Gamala, associated with a Pharisee named Zadok, formed a party to work solely on this line of attack. Then vengeance was sworn against whomsoever should transgress the Mosaic law, and the Zealots were pious cutthroats and assassins (not an exceptional case in the history of religious criminality [12]) who imposed upon themselves the sacred obligation of killing all transgressors of the law.[13]

It was in the midst of these tendencies and these contrasts that Jesus was born and rose to manhood.

He came in the fulness of time, and yet no one was less than He of His time. No one felt more than He its historical conditions, and yet he dominated them. No one forded the stream of centuries and epitomised in His regenerating word the infinite course of history like the martyr of Galilee.[14] He came to give to the world, and to Rome herself, what men knew not of, or denied—equality before God. Alexander, Cæsar, Augustus, Tiberius, or the reactionaries who might have rebelled against them, would have failed in this great enterprise, since, although one or the other might perhaps have succeeded in imposing it with poor and transitory result, they would not have understood how to indicate it simply while leaving it to fulfil itself. All the incomparable power of Jesus is in this truth.

He announced the good news of the kingdom of God, but His God is not the national God of Israel, nor the Lord of Hosts, nor does He sit enthroned amid clouds and lightning. He is the Father who is in heaven.[15] In the presence of this fundamental affirmation all men are brethren, being sons of one and the same Father, and there are no longer any Hebrews, nor Samaritans, nor common people, nor outcast classes: humanity is one people and one family, whom God loves and watches over from heaven with a Father's impartial eye. Here is the mighty lever of a whole social revolution.

The domain of Jesus is not confined to the rights and needs of one people only, but embraces the aspirations and aims of humanity. Hence He founded no political party and headed no religious faction; He propounded no judicial system nor any economic rule in substitution of contemporary law and government. Even wealth, which is the negation of His kingdom, He does not seek to claim nor to regulate or socialise, contrary to what has been wrongly said in His name by some in our day.

But He deprived it of all honour, all value, and repudiated it. He overcomes the world because He knows how to renounce it.

His programme is rather a reaction against than the evolution of preceding popular movements; heaven divides Him from the Essenes, the idea of country from the Gaulonites, intelligence from the laws of the Pharisees,[16] and Jesus, perhaps as an intended contrast to the school of Sariphæus, declares that His kingdom is not of this world. It may have been that, in similar contradiction to the sect of the Gaulonites, He enjoined the rendering unto Cæsar of the things that are Cæsar's, and, from a similar antithesis to the party of Gamaliel, paid the state tithe.

This great and incomprehensible vastness of doctrine must have been the first cause of the impunity enjoyed for three years by the public discourses of Jesus, as in our own day the vast movement of an economic party could more easily escape check than the subtle action of an anti-constitutional party. The latter is a nearer and more concentrated enemy than the former, and every government defending itself from its enemies has the shortsightedness of the egoist, and takes the uncertain measures characteristic of timidity. Not least among the causes of impunity were, no doubt, the attitude and customs of this people, unquiet by nature, necessitous by origin, and the prey of a continual and irrepressible agitation connected with the problem of its existence and destiny. Spontaneous and valid reason was also afforded by the manner of life which was made cause of reproach against Jesus by His enemies—by His pure and simple youth and His missionary action, void of all finality and mundane competition. Later on we shall see how a malignant pretext and a calumnious charge were put forward in order to bring into the category of

external, imputable facts an ideal, superhuman work that appealed solely to the hearts of men, wherein the Galilean had founded His kingdom and kindled His revolution.

NOTES

[1] Under the title of *Jésus bon citoyen* Bossuet wrote a chapter of his *Politique tirée de l'Ecriture sainte.*

[2] Renan, *Histoire du peuple d'Israel*, vol. ii. pp. 170, 171, 181; Nitti, *Il socialismo Cattolico*, cap. iii.

[3] Cf. Castelli, *Il Messia secondo gli Ebrei*, Firenze, Le Monnier, 1874, pp. 25, 31; Chiappelli, *Nuove Pagine sul Cristianesimo antico*, Firenze, Le Monnier, 1902, p. 43.

[4] Op. cit. *Préface*, p. 3.

[5] Exodus vii. 1, 2.

[6] Exodus xv. 20, 21.

[7] Deuteronomy, xiii. 1, 3, 6, 8, xviii. 15, 18, 20. Cf. Levi, *Sulla teocrazia mosaica*, Firenze, Le Monnier, pp. 191-220.

[8] Josephus Flavius, *De bello jud.* II. viii. 1-8; *Antiq.* XIII. ix. 7, 18, 4, 5, XVIII. i. 1, 3, 4.

[9] Ibid. *Antiq.* XIII. ix. 7, XVIII. ii. 2; *De bello jud.* II. viii. 1, 8.

[10] Ibid. *Antiq.* XIII. ix. 7, XVIII. ii. 1; *De bello jud.* II. viii. 2-7; Pliny, *Hist. nat.* v. 17; *Adv. hær.* cap. xix. 1, 2.

[11] *Vie de Jésus*, ch. iv.

[12] Cf. Corre, *L'ethnographie criminelle*, Arch. delle Trad. Pop. xii. 130, Palermo, 1893; Lombroso, *L'uomo delinq.* i. 52. Annecchino, *Divinità criminali*, p. 9; De Rotterdamo, *Elogio della pazzia.*

[13] Philo, *Leg. ad Cajum*, par. 38; Josephus, *Antiq.* XIII. par. 2.

[14] Cf. Chiappelli, *Nuove Pagine sul Cristian. ant.* p. 76.

[15] S. Matthew v. 45, 48, *passim.*

[16] Petruccelli Della Gattina, *Memorie di Giuda*, ii. 184. To this Italian author, unjustly forgotten, because of no common worth, we owe the neatness and elegance of the above passage, together with the originality and acuteness of continuous observations, which are set like gems in common metal in the romantic matter of this book, *Memorie di Giuda*—material which, in view of delicacy of the subject to be treated, is of poor alloy.

CHAPTER II

The Voice in the Desert—The Precursor of Jesus—The Axe to the Root of the Tree—The Messiad which crossed from the Desert into Civilisation—Civil Status of Jesus—His Country—His Parents—His Precocious Childhood—The Family Trade—The Meeting with St. John the Baptist—Beginning of the Public Life of Jesus.

A STRANGE pilgrim wandered in the year 28 of our era in the solitudes of the desert of Judæa on the left bank of the Jordan.[1] Wearing a leathern girdle about his loins and subsisting upon locusts and wild honey, he exhibited in his mode of life the repentance and self-sacrifice which he taught to those who approached him.[2]

"Repent ye, for the kingdom of heaven is at hand—And now also the axe is laid to the root of the tree; therefore every tree which bringeth not forth good fruit is hewn down and cast into the fire. He that hath two coats let him impart to him that hath none, and he that hath meat let him do likewise."[3] And to the Sadducees and Pharisees who accosted him under pretext of desiring instruction he cried, spurning their duplicity, "O generation of vipers, who hath warned you to flee from the wrath to come?"[4]

This ardent and inspired language bore no doubtful signification. The unfruitful tree was egotism, deceit, cupidity; the axe already laid to the root of the worthless tree was the work of regeneration and justice, proclaimed to be imminent. Most men thought that it was this pilgrim himself—the Anointed One or the

Messiah—who should complete the purifying work, but to them he declared in order to dispel their illusion:—"I am the voice of one crying in the wilderness 'Prepare ye the way of the Lord, make His paths straight—there cometh One mightier than I after me, the latchet of whose shoes I am not worthy to stoop down and unloose.'"[5]

The pilgrim is therefore a precursor. He knows that men are not yet at all prepared for the mission that is coming after him, and calls them to repentance, and demands a searching purification of souls symbolised by the exterior laving of baptism. His cry is one of innovation, it is the cry of an idea become a need—of a conception proceeding from sentiment, of an imminent necessity which will not be gainsayed and penetrates to the desert. When this cry comes from the desert of Judæa, the necessity is imperious, the man predestined to incarnate it is present, He is on the banks of the Jordan and desires immersion in its waters under the creed of the Baptist. He represents the feeling of necessity coming from the depths, from the desert; He, become incarnate, takes up His mission from the hands of the Baptist by the grace of baptism and not in the way of improvisation. The Messiah is in the desert, the Messiah shall render it cultivated, popular, victorious.[6]

What difference of life and language exists in fact between the precursor and Him whom he preceded! The former is a rude, strong anchorite, and if not belonging, as some have conjectured, to the Essenes, is at least Nazarene, and thus bound by vow to solitude and abstinence.[7] Even in the midst of multitudes of hearers, and of those who had received baptism, he always remained a solitary. His voice shakes the soul and makes it tremble: it is the voice of a censor,

not of a consoler, and for his austerity of censorship alone he is destined to lose his head. Jesus, on the other hand, is of gentle nature, serene and sociable. He shuns the solitude and stillness of the desert, defies the powerful and the hostile, braves sectaries and priests, has the sinner for His friend, is merciful to the adulteress and eats with publicans. His words are suave, insinuating, tranquillising, His call to the kingdom of God, which epitomises all His mission, is likened by Him to a genial banquet, and he who follows it takes part as in a wedding procession. His thoughts and His figures of speech are most frequently of festivity, of confidence; His yoke—He tells us—is easy. He also calls men to repentance, but the penitence which He enjoins is not the leathern girdle, nor the solitude, nor the fasting of the desert; it is contrition and faith. The prodigal son obtains more grace from his Father than the more righteous brother, and while the censor of the desert with just but austere rigour rebukes Herod Antipater, who lives in concubinage, Jesus turns to the adulteress with gracious words of defence and pardon. "They are two figures," very justly observes one of our best authors, "who move in the same religious orbit, but in contrary directions. They are indeed so dissimilar that this diversity should alone suffice to condemn the hypothesis, maintained by a recent German critic and based upon the opinion of some contemporaries of the two personages, that Jesus was only a second name of the Baptist who was believed to have risen from the dead." [8]

The voice of the desert brought hearers from every part of Syria, and among them the Nazarene, Jesus, who had just attained His thirtieth year. Before this date little is known of His youth, since the Gospel record of His life commences about that time.[9] In

any case it is only now that Jesus enters upon His public life.[10] It is not certain how long it lasted in view of the hitherto irreconcilable doubts and contradictions connected with the chronology of the whole life. According, however, to the Synoptics, the public portion of the life was of the duration of one year passed in Galilee, while, according to the fourth Evangelist, it extended over three years, passed in Judæa, excepting the time during which Jesus was compelled to abandon His public teaching.[11] Irenæus, who lived in the second century, affirms that the public life of Jesus lasted for ten years, and that he learned from disciples of the Evangelist S. John that the life of Jesus on earth exceeded forty years.[12] The year of the birth of Jesus is not known with certainty, but it incontestably occurred in Palestine under the Empire of Augustus Cæsar, about the Roman year 752—that is to say, about two years before the Christian era, which is, however, commonly supposed to have commenced with the birth of Jesus Christ and was therefore named after Him.[13] He was born at Bethlehem in Judæa,[14] but His family were of Nazareth in Galilee, and He was therefore commonly called the Nazarene.[15] Joseph, His father, was a poor artisan and worked as a carpenter. Mary, His mother, was a young woman of the Syrian type, full of grace and charm.[16] Nothing more can be affirmed with certainty regarding the civil status of Jesus if we regard only natural and not dogmatic data, for which there is no place in the present historical work. Only those who have set themselves to run counter to every Messianic tradition could maintain that Joseph and Mary were legally married, because otherwise their offspring could not, as illegitimate, have remained seated before the High Council on his trial,[17] as if it were not the fact that neither the

Mosaic nor the Roman law was superficially observed in the political homicide of Golgotha and that the procedure was of the most irregular and tumultuous kind. This, in fact will be the principal argument of these pages. The incidents narrated in the Gospels show that the child Jesus was precocious in manifesting His inclinations, so that when at the age of twelve He went with His parents for his first Easter to Jerusalem, He took great interest in discussions with the rabbis and scribes.[18] While still adolescent He followed the paternal trade at Nazareth [19] and learned to read and write the language of His father, which was a Syriac dialect mixed with Hebrew such as was then spoken in Palestine.[20] It is a gratuitous and unproven assertion that His childhood was confided to the care of the Essenes.[21] In Nazareth, whence every year He made the Easter journey to Jerusalem,[22] the youth of Jesus passed in obscurity with His mother, who treasured in her heart the wisdom and grace by which her only Son [23] was so distinguished among the youth of the place.[24] About this time the father died,[25] and Jesus in the thirtieth year of His life went forth to meet the pilgrim of the desert. This man was John, surnamed the Baptist, from his custom of baptising all who desired to receive a visible sign of his words, and whom he immersed in the waters of the Jordan in sign of penitence and purification.[26] Jesus also received baptism, and under the influence of this meeting He entered securely and marvellously upon His mission. His baptiser was His precursor, but the baptised Jesus commenced where the Baptist finished and was ready to expound a teaching which after nineteen hundred years may still find adversaries but no emulators.

John laid the axe to the root of the tree; Jesus will fell it.

Notes

[1] S. Luke iii. 1. The Evangelist fixes the date at which the mission of S. John the Baptist began: "Anno autem quintodecimo imperii Tiberii Cæsaris, procurante Pontio Pilato Judæam," and adds "ipse Jesus erat incipiens quasi annorum triginta" (lvi). Josephus, *Antiq.* XVIII. vii. 2. For the heterodox criticism regarding John the Baptist, *v.* Strauss, *Vie de Jésus, ou examen critique de son histoire*, trad. by E. Littré, Paris, De Laudrage, 1839, tom i. ch. i. par. 44.

[2] S. Matthew iii. 1, 4; S. Mark i. 4, 6.

[3] S. Luke iii. 9, 11; S. Matthew iii. 10.

[4] S. Luke iii. 7; S. Matthew iii. 7.

[5] S. Matthew iii. 3, 11; S. Mark i. 3, 7; S. Luke iii. 4, 16; S. John i. 23, 26, 27; Acts i. 5, xi. 16, xix. 4. Cf. Isaiah xl. 3.

[6] Cf. Bovio, *Corso di scienza del diritto*, Napoli, Jovene, 1877, Lez. vi.

[7] Epifanio, *Adv. hær.* XXX. 13.

[8] Chiappelli, *Nuove pag. sul Crist. ant.* pp. 56, 57. The German author is Sack, *Die Altjüdische Religion*, Berlin, 1889, p. 429. For the popular Jewish opinion, *v.* S. Matthew xiv. 2, S. Mark vi. 14, S. Luke ix. 8.

[9] S. Mark (i, 1, 3, 9) begins his Gospel direct from this epoch.

[10] S. Luke iii. 1: *v. s.* note 1. If, as this Evangelist attests, Jesus had entered his thirtieth year when He heard the voice from the desert, it is clear that before this time Jesus had not come before the people.

[11] S. John iv. 1, 3, 43, vii. 1.

[12] *Adversus hæreses.*

[13] The calculation by which the birth of Jesus coincides with the beginning of the Christian era was made in the sixth century by Dionysius Exiguus. According to this reckoning, by which we all count the days of our life, the birth of Jesus and the beginning of our era should fall in the year 753 of Rome, corresponding to the year IV. of the CICIV. Olympiad and to the year 4714 of the Julian period. But this calculation is by common accord found to be incorrect. Cf. Caspari, *Introduzione cronologico*

geografica alla vita di G. C. (Hamburg, 1869). In this matter may also be consulted Bonghi's easy and lucid exposition, *Vita di Gesù*, appendix iii. The chronology of Caspari is adopted here. The only certain chronological date in the life of Jesus is its final limit, which can be fixed as nearly as possible in the year 36 of Christ, since in the year 37 Pilate was recalled by Tiberius a little before the death of the latter. And as Tiberius died in March and Pilate on his return found him already dead, the recall must therefore have been notified before March of the year 37, and hence the last Easter which Pilate passed in Jerusalem, and during which the Crucifixion could have occurred, must have been that of the year 36. (For the recall of Pilate, cf. Josephus, *Antiq.* XVIII. 4, and Tacitus, *Annal.* vi. 31, 32).

[14] S. John vii. 42; S. Matthew ii. 1, 5, 8, 16; S. Luke ii. 4, 7, 15.

[15] S. John i. 45, 46, viii. 41; S. Matthew ii. 23, xiii. 54; S. Mark vi. 1. The reason why the mother of Jesus went from Nazareth to Bethlehem where the child was born is not clear, but that does not mean that it is a statement to be rejected with the sole object of inventing another. An invention of this sort, for it was never proved, was the story that contrary to the Messianic tradition, Jesus was born at Nazareth and not at Bethlehem. It was not understood why the mother of Jesus should have made the journey to Bethlehem, and to explain this it has been alleged, on the basis of a slight indication in the Gospel narrative, that in those days an edict went forth from Augustus Cæsar ordering a census of all the people, according to which every subject of Rome, including those of the province of Judæa, should report at the nearest town of their district, for which reason Joseph, the father of Jesus, had to repair to Bethlehem. But even if this were the manner of obeying the decree of Augustus, it is also true that the census in question was carried out by Publius Sulpicius Quirinus, the Imperial Prefect in Syria, about ten years after the birth of Jesus, since it was only at that time, and not before, that Sulpicius Quirinus succeeded Quintilius in the Syrian Prefecture (Orelli, *Inscr. lat.*; Henzen, *Supplement* to Orelli). But if the reason accepted in explanation of the circumstance of the birth of Jesus at Bethlehem may not be good in itself, still less satisfactory is the reason so lightly alleged by Renan (*Vie de Jésus*, ch. ii.), as proving that Jesus must have been born at Nazareth. Renan

only refers to the testimony of the Evangelist who more often speaks of Jesus as of Nazareth (S. John i. 45, 46, vii. 41, 42), but he does not perceive that the same Evangelist also speaks of Bethlehem as the city whence came the Messiah (S. John vii. 42), and for him the Messiah was Jesus (S. John i. 14, 17, *passim*).

[16] S. Matthew xiii. 55; S. John vi. 42. The Latin word *faber* (corresponding to the Greek τέκτων) signifies any mechanical work, while in the designation of particular kinds of work it requires a specific adjective. Thus, for example, *faber ferrarius*, blacksmith, *faber aurarius*, goldsmith, *faber lignarius*, carpenter (Cicero, *Bruto*, cap. lxxiii.). Moreover, it was a general custom with the Hebrews as with other peoples that men following intellectual pursuits should learn some trade. S. Paul, for example, was a tentmaker, *scenofactoria ars* (*Acta Apost.* xviii. 3). According to a pious tradition, it is to a gift from Mary that the women of Nazareth owe the beauty for which they are renowned in our own day. At eventide, when the young girls, with pitchers poised on their heads, go to draw water from the springs which run flashing among the rocks, the foreign wayfarer is struck by the regularity and grace of their features, the ineffable sweetness of their smile and the glance which they cast upon him from their black eyes (Mistrali, *Vita di Gesú* by Renan, cap. ii.). Renan also noticed this in his visit to Nazareth:—

"The fountain around which gathered in past times the gaiety and life of the little town is now destroyed, and only turbid water is to be got from its broken conduits. The women who congregate there preserve to a surprising extent the beauty already remarked in the sixth century (reference is here made to Antoninus Martyr) and believed to be a gift of the Virgin Mary. It is the Syrian type in all its grace, and full of sweetness. Mary no doubt came there nearly every day with her water-pitcher, taking her place in the file of her fellow towns-women who have not emerged from obscurity" (*Vie*, ch. ii.).

For the legends concerning Mary reference may be made for example, to Fabricius, *Codices apocryph. novi testam.*, in which is reprinted the Proto-Gospel (primitive form) attributed to S. James. Many foolish and minute details, including even the alleged visit of a midwife to Mary in the Grotto at Bethlehem, are pure fantasy of very questionable taste.

[17] Salvador, *Histoire des institutions de Moïse et du peuple hébreu*, tom. iv. par. 1, liv. 4, ch. 3 text, and note 84. The law to which Salvador refers must be this passage of Deuteronomy: "Non ingredietur mamzer, hoc est, de scorto natus, in ecclesiam Domini, usque ad decimam generationem" (xxiii. 2). But Salvador himself says: "The family of which Jesus formed part was not a fortunate one. Joseph, his putative father, knew that his wife was with child before they came together. If he had brought her before the tribunal, Mary in the ordinary course would have been condemned under Art. 23 of chap. xxii. of Deuteronomy." But in this text we read: "Si puellam virginem desponderit vir, et invenerit eam aliquis in civitate, et concubuerit cum ea. (Par. 24 follows) Educes utrumque ad portam civitatis illius et lapidibus obruentur." Now who, in the case of Mary, *concubuerit cum ea?* If allusion to Joseph is intended, the text of the law is not applicable. How then can Salvador interpret this text? To me it seems only possible to interpret it in the sense that the Hebrew girl (who after espousal remained for some time in the paternal home) was punished as an adulteress if she had yielded to somebody who might have met her in the town, but not if to her betrothed husband since (adds the same par. 24) *vir humiliavit uxorem proximi sui.* Hence lapidation could not be the lot of either Mary or Joseph.

It would have been hard for Joseph—a putative husband—to have been stoned to death! Against the theory of a real and proper marriage reference may be made to S. Matthew i. 18, 19, 20; S. Luke i. 27, 34, 35, ii. 5; S. Augustine, *Contra Julianum*, lib. v. cap. xii.

[18] S. Luke ii. 42 *et seq.* For the heterodox criticism on this point, *v.* Strauss, *Vie*, sect. i. ch. v. par. 40.

[19] S. Mark vi. 3: "Nonne hic est faber, filius Mariæ?" This results also from the *Storie di Sozomeno*, lib vi. c. ii.

[20] S. John viii. 6, 8. More from this passage than any other it may be concluded that Jesus had learned to write. The Evangelist, referring to the incident of the pardon of the woman taken in adultery, attests that Jesus wrote upon the ground with His finger. Cf. Mishnah, *Shabbath.* i. 3. For the language spoken by Jesus, consult Eusebius, *De ritu et nom. loc. hebr.*; *Adv. hær.* xxix. 7-9; xxx. 3; S. Jerome, *Dial. adv. pelag.* iii. 2.

[21] Salvador, *Histoire des institutions de Moïse et du peuple hébreu*, tom. i. ch. iii. p. 270. Salvador affirms it.

[22] S. Luke ii. 41. Cf. Exodus xxiii. 15, xxxiv. 18; Deuteronomy xvi. 2.

[23] Those relations who would appear to have been, and are sometimes called by the Evangelists themselves, brothers and sisters of Jesus (Acts i. 14; S. Luke viii. 20; S. Matthew xii. 47 *et seq.*; S. John ii. 12, vii, 3, 10; S. Mark vi. 3). They were not really so, since they are mentioned by their names of James, Simon, Joseph, and Judah as sons of Mary, sister of the mother of Jesus, who espoused a certain Alpheus or Cleophas and had by him a large family (*Const. Apost.* vii. 46; *Hist. eccl.* iii. 32). Hence the supposed brothers and sisters of Jesus are nothing but cousins, of whom he was the elder in years, and for that reason was called the firstborn (S. Matthew i. 25; S. Luke ii. 23). Moreover, when these two Evangelists speak of Jesus as firstborn, they do not wish to convey that He had brothers and sisters. S. Matthew (*l. c.*) says that Joseph knew not Mary until after her son was born, and by this the Evangelist does not wish it to be supposed that Mary before the birth of her son was known by another, seeing that his idea is essentially a dogmatic one and cannot admit contradiction based on reasons of a natural order! In like manner S. Luke (*l. c.*) mentions the firstborn in connection with the purification of Mary after having spoken of the spiritual conception of her son (i. 27-35), a statement which would be in open opposition to the attribution of other children to Mary. Heterodox criticism, in fact, willingly upholds the contrary thesis (cf. Strauss, *Vie*, ch. iii. par. 30, and Renan, *Vie*, ch. ii.)—a thesis which in my poor opinion can never be confirmed by the Gospels, on which it is sought to be founded, since if the Evangelists, according to all heterodox criticism, adapted their narratives in conformity with a didactic dogmatical and theological point of view rather than with a biographical, historical, and naturalistic one, it is an absurdity and a contradiction to pretend that they themselves wished to testify to a primogeniture in Jesus, whom they necessarily regarded as the only begotten Son, in consonance with the mystery and dogma of the incarnation upheld in common accord by them.

[24] S. Luke ii. 51; S. Matthew ii. 23.

[25] Concerning the death of Joseph, more may be deduced from what is left unsaid than from what is said by the Evangelists, who say no more about it at this point, leading us thereby to understand that Joseph died when Jesus had reached his twelfth year. Luke, who particularises more than the other Evangelists concerning the childhood of the Master, mentions the generation of Jesus and Joseph in chap. ii.

[26] S. Mark i. 4; S. Matthew iii. 1, 6, 13; S. Luke iii. 3, 16, 21; S. John i. 6, 8, 20, 23, 26, 28. Cf. Witsii, *Exercitatio de Johanne Baptista* in *Miscell. Sacra*, ii. 87.

Baptism, as the original Greek word indicates, signifies ablution or washing, and in this sense the Jews designated as baptism certain legal purifications which were practised after circumcision. The Hebraic law is full of injunctions in regard to lustrations and baptisms. The baptism practised by S. John the Baptist may be compared to a bridge leading from the Jewish baptism to that of Jesus (S. Chrysostom, *Hebr.* cap. x.).

CHAPTER III

The Doctrine of Jesus from the Economic Point of View—The Hebrew Tenure of Property—Wealth Incompatible with the Kingdom of God—The Attacks and Parables of Jesus—The Conclusions of His Doctrine—New Definition of the Meaning of Life—Substitution of the Christian for the Pagan Idea of Society—Neither Negation nor Distribution of Wealth, but its Administration by Owners for the Benefit of All—Christianity and Socialism—The Language of the Fathers of the Church and the Language of Jesus—The Thoughts and Language of Jesus in regard to the state of opinion and of legislation concerning wealth—Jesus does not violate institutions and laws, but raises feelings at variance with them—The Rich come to hate Him.

The first blow of the axe was bound to be directed against wealth, the principal cause of the differences and rancour characterising social struggles: wealth which is the first obstacle to the reign of the paternity of God, as it is also its most irreconcilable negation, since it breaks the filial relation of man to the Father, and the fraternal bond between men. In those days it did not happen that a single family enjoyed an income of £4,000 per day—equivalent to the earnings of fifty thousand operatives with wages at one shilling and eight-pence per day—as we now see with the Astors, Rockefellers, and Goulds of the United States of America, nor did the motive force at the disposal of the nations exceed that of fifty million horse-power, and usurp the work of a thousand millions of men; nor did commerce, formed and transformed in infinite combinations,

engender a most novel feudalism that enabled great establishments like the Louvre, the Printemps, and the Bon Marché to raze at their pleasure thousands of humble homes in a few days; nor finally did the state admit the poor to the same civil and political rights as the rich—and thus, while admitting and proclaiming the equality of political conditions, render more acute and more irritating the inequality existing between economic conditions. Nevertheless the intolerable disproportion between superfluity and want existing among classes of one and the same people even then made itself felt.

The system of the tenure of property in force with the Hebrews is insufficiently known, but it is certain that the acquisition of property underwent a very rapid evolution. Genesis already mentions family property,[1] but it is known that this system was of very brief duration, and was replaced by the individual system of ownership. It is known also that the land of Canaan, conquered by violence, was divided up in such proportions that some noble families received as much as whole towns.[2] Hence John the Baptist's simile of the unfruitful tree that should be cast into the fire[3] was in no way an unjust one.

Jesus, in taking up the work of his precursor, dwells persistently upon wealth being the first condition of incompatibility with His Father's kingdom, and on this head admits neither truce nor compromise. "That ye may be," He says, "the children of your Father which is in heaven, for He maketh His sun to rise on the evil and on the good, and sendeth rain on the just and the unjust."[4] And leaving metaphor, He cries yet louder: "But woe unto you that are rich! for ye have received your consolation. Woe unto you that are full! for ye shall hunger. Woe unto you that laugh now! for

ye shall mourn and weep."[5] And after the cry—*væ divitibus!*—which He raised in His celebrated Sermon on the Mount,[6] the Master of Nazareth declared: "It is easier for a camel to go through the eye of a needle, than for a rich man to enter into the kingdom of God."[7] And the Evangelist records only one case in which a rich man is saved, the case of Joseph of Arimathea, perhaps to prove that God's omnipotence may enable a camel to pass through the eye of a needle!

The parable of the rich man who is erroneously stigmatised as bad, exemplifies the same inexorable principle; the poor man in the bosom of Abraham; the rich man, solely for being rich, in Gehenna.[8] In the other parable of the unfaithful steward the Master praises the man who makes friends for himself among the poor to the prejudice of the administrative trust confided to him.[9] On another occasion, replying to a young and wealthy proprietor who asks what he shall do to inherit eternal life, He says, "Go thy way, sell whatsoever thou hast and give to the poor, and thou shalt have treasure in heaven, and come, take up the cross, and follow Me."[10] And finally, when praying to the Father, "Holy Father, keep them in Thy Name whom Thou hast given me, that they may be one, even as we also are."[11] A too liberal interpretation of the words of Jesus represents Him in the Vulgate text as having said, "*Quod superest date eleemosynam.*"[12] But this rendering is an arbitrary one. The Greek words τὰ ἐνόντα were badly rendered by the Vulgate in the Latin *quod superest*, which would certainly signify "what ye have over and above," while in their original form the words simply mean "such things as ye have, and not the things ye have in superfluity." The error, too long allowed to subsist, was pointed out at the end of the sixteenth century by Catholic translators themselves

when greater attention began to be paid to the Greek text of the Gospels, which in the case of S. Luke is the original text.[13] Jesus, therefore, did not teach that to the poor should be given the superfluity of the rich, but all that the poor needed.

Hence the antithetical terms of His doctrine. Riches had to be renounced or the kingdom of God must be renounced: man must either serve the cause of egotistical society or embrace that of the Gospel. To serve two opposing causes would be the same as serving two masters—and Jesus declares, "No man can serve two masters, for either he will hate the one and love the other, or else he will hold to the one and despise the other. Ye cannot serve God and Mammon."[14] Hence the incontrovertible conclusion that this doctrine could not have been, and never can be, intended as embodying rules of conduct and revelations to be unchangeably accepted. It was, and is, a new explanation of the meaning of life, a fundamental definition of human conduct, an absolute substitution of the Christian idea for the Pagan idea of society. Otherwise Christianity would have been then, and to-day more so than ever, a worship and not a faith, an institution and not a whole and coherent conviction. In fact, its decadence dates from Constantine, when Pope Sylvester induced that monarch to profess the religion of Christ without requiring him to renounce the principles and customs of Paganism. In this the most Christian of the poets had reason to lament *di quanto mal fu matre*, not the conversion of the Roman Emperor, but *quella dote* by which the two Powers thenceforward united their efforts and procured the development of the material greatness of two institutions instead of one![15]

Nevertheless, it is not to be understood that Jesus advocated—through the absolute negation of wealth—a uni-

versal impoverishment in order to make wretchedness the terrestrial system of the heavenly kingdom, nor did Jesus propound a social programme aiming at succouring poverty and overcoming the inequality which is its step-mother, by acquiring and regulating wealth. Both these often-repeated assertions are false.

To Jesus, evil is evil, need is need, and instead of tolerating or encouraging them, His aim is to oppose and destroy them. Endurance and not resistance to evil is taught by Him to its victims, who in this respect are the poor; but to the workers of iniquity, who, in the same purview, are the rich, He allows neither truce nor evasion, and enjoins cessation from sin as the sole way of repentance. All His work in this regard also has been one of salvation, one of struggle against evil. "Thus it might be said," observes the learned historian of Dogma, "that Jesus may have exaggerated the depressing effect of poverty and misery and made too great account of them, while attributing at the same time undue value to compassion and mercy—the forces that should counteract those evils." But to maintain this would be an error, because he knows that a power exists which for him is worse than wretchedness and need, and this is sin; he knows there is a redeeming power greater than pity, and that is forgiveness.[16]

Now no danger and no occasion of sin can appear greater to the mind of Jesus than riches, which obtain the mastery over men and make them tyrants of themselves and others, subject them to the vulgar strivings and ease-loving propensities of this life and constantly tend to place them in incompatability with the paternal idea of God. Money becomes consolidated violence, egoism a mute tyranny. And against this condition of sin, Jesus set in motion a corrective force, which is altruism, solidarity, pity; but where this may not attain its

object or prove inadequate, he indicates another force much more efficacious and of a quite opposite character, which is the power of forgiveness. This force, in the practical outcome of life, goes beyond the other—it even takes its place or preserves it, since men are much more disposed to obtain forgiveness when they find who it is that pardons, than not to get themselves praised. Between two classes, one wealthy, the other disinherited, the former will be so much less disposed to acts of altruism, while the latter will be to a greater degree inclined to an attitude of resignation and forgiveness. Failing an immanent pressure on the part of the poor, and also in view of their resignation, the rich will always retain their wealth, and if undisturbed, may even augment it. And hence the supposed impoverishment will be much less provoked by the doctrine of toleration and forgiveness than by the system of struggle and conquest of classes. Moreover, Jesus applies His ideas to the world such as it is, in its laws and tendencies. To apply them He neither presupposes nor looks for the renovation and perfection of humanity, always and above all things egoistic, exception being made of the heavenly rewards promised in the Sermon on the Mount to those who hunger and thirst now, and the inexorable penalties pronounced against those who are satiated.

If, then, we adopt the mere abstract and polemical hypothesis that the good seed sown by Jesus may bear prompt and complete fruit, yet even then wealth will not be abolished, although its abuse will be changed into a spontaneous and perfectly equal and fraternal use. The same sentiments of altruism, of solidarity, and of mercy will induce the holders of wealth to distribute it and not to annihilate it, making the largest and best proportioned use not of *quod superest*, but of *ea quæ adsunt*. It may be said that the economic programme

of Jesus never aimed at annihilating wealth [17] but property, and this, not in regard to the power conferred by its possession, but to the fact of its unlimited enjoyment.

In the Christian idea individual property could not and should not be the *jus utendi et abutendi* of the Pagan conception; but should nevertheless be withdrawn from the occasional and legitimate possession of its holders. The latter should admit in principle and in fact that the property which they possess is the indivisible patrimony of the Father, who cannot have made distinctions or preferences among the brethren of the universal human family, that property does not belong less to others than to themselves, and that they should only possess it for the sole and unalterable object of administering it no longer for their own advantage, but for the benefit of their neighbours.[18] And although this may be a juridical paradox, it is not a moral absurdity, since it is wholly founded upon a calculation of the perfectibility of the individual by virtue of a persuasive ethical law, rather than on the perfection of the State by force of a coercive law such as might be expected from the collectivist economic schools.

Thus the individual in the individualistic system inseparable from Christianity, exercises a plainly socialist function in place of the State, which in the juridical system of collectivity should regulate the socialisation of land and the employment of the instruments of wealth. But the socialism inaugurated by the Master of Nazareth is one that admits of no comparison. It is not founded upon the premiss of antagonistic interests, but on the consciousness of a spiritual unity, and does not subject the solidarity of men and the community of things to the pressing and triumphant right of the disinherited, who remain always in the same attitude of res-

ignation, and in the same expectancy of pardon. This solidarity and this communism are recommended by the Master to the infinite appreciation of the soul in its place amid the eternal harmonies of justice.[19] Everybody will understand that it would be an unjust and fallacious artifice to compose a programme of juridical socialism, be it called Catholic or Christian, professional or State-directed, whether founded or not upon the abolition of individual property, or whether the cause be mixed or composite rather than simple and indivisible, wherefrom it is possible to distinguish what is superfluous and vain. And yet it has been affirmed that whoever rejects modern socialism rejects ancient Christianity.[20]

In reality, however, socialism and Christianity form a double name containing similar premises but wholly diverse conclusions. The premiss of a universal equality is similar and not identical, but the title and direction given to its realisation are absolutely different. What defines socialism is the recognition and exercise of an absolute and equal right of all men to the enjoyment of social well-being and the government of society. Now this is an altogether modern democratic idea which differs not only from the Christian, but also from the Pagan idea of communism, which shows itself in the remotest phases of society.[21]

The philosophers of antiquity who propounded communistic theories intended them to form an aristocratic ideal, and rejected the idea of any right on the part of the masses to govern the State. Plato and Xenophon, who fostered these theories, were two excellent aristocrats.[22] Free Sparta, which long preserved institutions most analogous to communism, was the most aristocratic republic of Greece. Even the much-envied Italian municipalities, observes a French writer on Florentine history, were not really democratic.[23] In Florence,

Venice, Bologna, and Milan political power resided in the city: the immense rural districts surrounding them being reduced to the strictest obedience, and in no way participating in the government of the State. The peasant in many of the freest States of mediæval Italy not only enjoyed no political, but often did not even possess civil rights.

Socialism is a product of modern democracy, and of those same liberal doctrines and reforms with which it appears to be in open opposition. A German socialist Deputy was right in saying at a sitting of the Reichstag to his colleagues of the Liberal party: "We are your pupils, we have done nothing but popularise your doctrines, and carry them to their final consequences for the advantage of the people." [24] With universal suffrage now introduced in almost all States, Liberals have said to the masses: "Rise, be the arbiters of the State." And thus it has come to pass that the equality of civil and political rights is the natural source of economic equality and the historic cause of socialism.

Without doubt the moral idea of Christ fertilised the exclusively economic germs by its long and fruitful work of education, anterior to the definition of any principles or to any conquests of liberalism. And from this point of view it has been rightly said that socialism is a phenomenon reflected from Christian countries.[25] And if there is truth in the admission also made by a positive economist that the intelligence of social science proceeds from the heart more than from the mind,[26] it must be said that the doctrine of Jesus, which for the last nineteen hundred years has spoken to hearts capable of generosity and compassion the great truths of fraternity and love, while rebuking social differences and injustices, must have weighed as a powerful influence in the deepest and noblest moral reasons of the

new economic doctrine, which has in part humanised the divine doctrine.

But the difference between the two doctrines is precisely that which intervenes between the two terms of the human and divine, between an affair of this world and an order of supernatural facts; the uncertain possession of property and economic inequality are not, according to the Master of Nazareth, injustices in the modern sense nor an *injuria* in the Roman acceptation of the term, but a contradiction and a fault of the soul destined for perfection. The equality which should be substituted for this sinful condition should be a matter of fact not of right, to be attained and secured by the simple virtue of persuasion and by the sole sanction of faith—a faith which rests upon the rewards and punishments of a justice beyond this world.

On the other hand, in the foundation of the socialist programme, individual property and economic inequality are a spoliation and an injustice for which should be substituted a condition of right and not of fact, constitutionally different, founded upon the socialisation of all the means of wealth and disciplined by the will and coercive sanction of the State government.[27] Such is the socialist State of modern collectivism, which is opposed to and does not approach the socialist individualism of original Christianity.

By this profound individualism, and this negation of every rule and every constitution of the State, the City of God prepared by Jesus would be comparable rather to anarchism than socialism, to a mild, sweet, and holy anarchy to which all law and every activity of life would be left, to the liberty of the soul and the conscience of the perfectible individual.

In one sole point is affinity perceivable between socialism and Christianity, and that is in the negative and

popular part of their doctrine—that is to say, in the ready and deeply felt condemnation of social inequalities and injustices. This affinity does not exist in the reconstructive domain where the designation and means of the cure and the remedies to be applied to the evils of society have to be considered. Hence, in their propaganda against these evils, resemblance exists between Christianity and socialism, but not identity.

The early Fathers of the Christian Church were prodigal of their reprobation and threats against wealth, and particularly against property, in a vast and florid literature which in our own day would be described as more than subversive, and which not all socialists, not even the most ardent, are at present accustomed to adopt. A humorous French writer found material for a book in his researches among this literature.[28] One of the most moderate stylists is S. John Chrysostom, who expresses himself to the following effect: "This is the idea which we must form of the rich. They are veritable robbers posted on the highway, where they strip travellers of all they possess, and heap up in their houses, as in caves, the goods of which they have despoiled others." [29] Not less vigorous are the expressions used by S. Gregory the Great: "There is no greatness simply in not robbing others of what they possess, and vainly do those believe themselves innocent who appropriate the sole goods that God has rendered common. By not giving to others what they have received, they become homicides, since, retaining for themselves what would have alleviated the sufferings of the poor, they may be said to kill every day as many people as they might have succoured." [30] And S. Jerome: "Opulence is always the product of robbery, which, if not committed by the present proprietors, certainly was by their predecessors." [31] S. Basilius says: "You rich act

like a man who, being in a theatre and having secured the best places that others might have taken, seeks to prevent anybody else from entering."[32] S. Ambrose describes private right as born of usurpation.[33] S. Augustine declares: "Property is in no way derived from natural right but positive right, and rests simply upon civil authority."[34] Tertullian, speaking more in the spirit of a layman, says: "Everything must be in common among us except women."[35] And many other quotations to the same effect might be adduced.

Jesus Himself did not spare sharp and vehement words in this or in any other matter which called for reprobation, but to no one so much as in His own case do mutilation of His doctrine and garbling of His words do such great affront and prejudice. His idea is simple, organic, indivisible, and cannot be properly understood if abstraction be made of his preaching. When, for instance, we read in the Gospel that He recommended the young man desirous of following His teaching to sell all he had and to follow Him,[36] we must not think that a contradiction exists between this incontestable declaration of the negation of wealth and the demonstration of the idea of the detention and administration of wealth by its proprietors for the benefit of their neighbours. Jesus sometimes commanded the renunciation of every means of wealth, but did not impose upon all this renunciation, which results from a singular gift, from a special vocation. He imposed it solely upon those who asked Him to allow them to dedicate their lives to the ministry of the Word and the preaching of the Gospel.[37] And among these was certainly the young proprietor whom He recommended to sell all and follow Him. The suggestion was irrefutable, since it must be concluded that those who dedicate themselves to preaching and heavenly things would be the worst administra-

tors of this world's goods, injuring not only themselves, but also those depending upon a good administration of their property. It is clear, then, that another incompatibility of a practical and decisive kind arises. It is that if a healthy man may console a sick man, a wealthy man may not preach to the poor man that riches have no value, and that in any case they have not so much price as to be worth incurring hatred and vengeance to acquire them, rather than exercise resignation and loving-kindness.

Similarly Jesus mentioned those who became eunuchs in order to follow Him in the way of heaven, and on one occasion said: "If any man come to Me and hate not his father and mother and wife and children and brethren and sisters, yea, and his own life also, he cannot be My disciple."[38] But even these and other utterances, which should be interpreted in a broad and not narrow spirit, are addressed to those few disciples who volunteered to follow Him directly. As regards all other men, Jesus believes it possible that at their risk and peril they may live with their faith in the position wherein fortune has placed them, each remaining in his calling and station in life. Moreover, the Apostles themselves did not put before everything the poor and ascetic life. They proclaimed that the labourer was worthy of his hire and did not repudiate their own wives. Of St. Peter it is even related that his wife accompanied him on his missions, and the statement that the Apostles endeavoured to found a sort of communism in the early days of Christianity in Jerusalem is not confirmed.[39]

But do the thoughts and the style of Jesus, as examined in the argument on the economic question, make of Him a subverter and a rebel before the state of general contemporary opinion regarding wealth? And may His thoughts and His style furnish matter for accusa-

tion in regard to the institutions and laws of His time? Neither hypothesis is justifiable.

Above all, the new and original inculcation of mercy upon the rich and resignation upon the poor exhaled such a fragrance of peace and human concord that conservatives of the age in which Jesus lived could not desire in this argument anything less anti-social and more opportune. Moreover, the most spontaneous democratic fervour had long agitated the Jewish race. In the pages of the Old Testament the thought often occurs that God is the protector of the poor and of the weak against the rich and powerful. The Book of Enoch contains maledictions no less violent than in the Gospel against pomp and riches. Luxury is treated as a crime:[40] the initiation of the Hebrew people to profane life, the gradual introduction of well-being and softness in the Israelite cities, the invasion of commerce and its corruptions, provoked a furious reaction in favour of the lost patriarchal simplicity. The name of *ebion* (poor person) became synonymous with holy man, and the term "ebionism," with a life of sanctity.[41] Man, according to the idea of Job, is born to labour as the bird to fly.[42] Whosoever deprives a man of the bread gained by the sweat of his brow is like unto him who murders his kind.[43] In Leviticus we read that the Lord hath said: "The land shall not be sold for ever, for the land is Mine, for ye are strangers and sojourners with Me."[44] The prophets, orators of the most liberal tendencies, constantly repeated these trenchant utterances, which recovered actuality in the popular dislike of the ever-increasing concentration of wealth.

Mosaic legislation as resulting from Scripture, and particularly from the Pentateuch, was a programme of theocratic communism based on solidarity. Property was not an absolute right—the succession of women was

ed, the transfer of the paternal heritage to various
s on the occasion of marriages and agnatic prefer-
, intended to assure the permanence of property in
lies, were prohibited. Other measures were the sur-
:r imposed upon owners of the spoils of battle in
ur of the poor, the remission of debts, and the rest
1 to the earth every seven years, the division of
nal territory among the twelve tribes, the jubilee,
ie restitution at the end of fifty years of the lands
ated in favour of former proprietors and their
, the organisation of mutual services, the tithe, the
: fees in favour of the priest, the limitation of usury,
obligation of alms-giving, indicated by a word
fying justice (*tsedakak*). Other similar obliga-
recommended by injunctions in the moral order
nd in the Hebrew laws.[45] Such and so many were
legal limitations imposed upon wealth, as to show
the state of economic legislation was not much
v the demands of popular opinion.

e views of Jesus upon wealth cannot then be op-
d either to the traditions or the laws or the opinion
[is time, although they may differ essentially from
. They are certainly in strong contrast to the feel-
of easy and contented egotism of the holders of
th, who perceived to their great chagrin in the
aganda of the new rabbi or prophet a brightness
an insinuating and victorious charm which they
never noticed or feared in any other preachings.
rich could not be friends, but neither could they be
accusers of Jesus, since His attitude and language
ie argument was perfectly legal, but they cherished
eir hearts on account of His words a strong and
aversion, anxious to find a pretext on the first
urable occasion to support an accusation that might
any semblance of legality. Here, however, even

the appearance of culpability was wanting, and Jesus must of necessity be acknowledged innocent, since His doctrine, differing from, or rather in contrast with, every other economic movement in history, contained nothing of a temporal character. Nothing of the human action of Jesus, either on this point or any other of His doctrine, ever aimed at violating the laws or institutions: it sought only to educate and move public feeling in a spirit differing from their provisions. Even had property been the jealous institution which it is now, and was not then, it is certain that the Master of Nazareth would never have incited any one to attack it. He never taught the acquisition of it even by pacific means, and to no one did He promise the advent of economic justice upon earth.

NOTES

[1] Genesis xxiii. 13, 18, 20.

[2] Numbers xxvi. 53; Joshua xiv. 9. Cf. Nitti, *l.c.*

[3] The description "unfruitful" here used by the Baptist should not be understood as applying exclusively to the evil of unproductiveness: it is also to be interpreted as absorbing nourishment while rendering nothing in return.

[4] S. Matthew v. 45.

[5] S. Luke vi. 24, 25.

[6] S. Matthew v. vi. vii.; S. Luke vi. 20-49.

[7] S. Matthew xix. 23, 24; S. Mark 23, 25.

[8] S. Luke xvi. 19-22, 23. Against the arbitrary description of the rich man as bad, cf. Curci, *Di un socialismo Crist. nella quest. oper.* Florence, Bencini, 1885, cap. vii. par. 14. In the same sense Reuss, *Histoire de la théologie chrétienne au siècle apostolique*, lib. vi. cap. vi.

[9] S. Luke xvi. 1-10.

[10] S. Mark x. 17-21; S. Matthew xix. 16-30.

[11] S. John xvii. 11, cf. 20, 21, 22.

[12] S. Luke xi. 41.

[13] The *quod superest* of the Vulgate was not read in the text by Origen (in *Levitic.* homil. ii.), by S. Chrysostom (in *Matth.* homil. ii.), by S. Ciprianus (*Ad Quirinam*, lib. ii. cap. i.), by S. Ambrosius (*Expos. evang. sec. Lucam*, lib. vii. 101), nor by A. Lapide (*Comm. in Lucam*, xi. 41), who also mentions five different modes of interpretation, among which the *quod superest* does not appear; S. Augustine, where it is read (*Enchiridion*, cap. lxxvi.) and where it is not read (*De verbis Domini*, sermo xxx.). Jansenius understands the passage in its true sense—*i.e.* in the sense of things which one actually possesses, *ea quæ adsunt* (*Comm. in conc. evang.* cap. lxxxiv.). Cf. Curci, *Note esegetiche e morali espositive del N. T.* Florence, Bocca, 1879, vol. i. p. 387; ibid. *Lezioni sopra i quattro evangeli.* Florence, 1874, vol. iv. lez. viii. p. 14; ibid. *Di un socialismo cristiano nella questione operaia*, etc., Florence, Bencini, 1885, cap. vii. par. 14.

[14] S. Matthew vi. 24; S. Luke xvi. 13. In the text, "riches" is rendered by the world *mammona*, which had that signification in the Chaldean language. Cf. S. Luke xvi. 9, 11.

[15] Cf. Negri, *L'imp. Giuliano l'Apost.* Milan, 1902, 2nd. ed. p. 151 *et seq.* Kheltchitsky, *La rete della fede.* A very original work of the fifteenth century in the Greek language, cited by Tolstoi, *Il regno di Dio è in voi.* cap. i.

[16] Harnack, *L'essenza del Crist.* conf. vi.

[17] The erroneous idea of the annihilation of riches has been repeated by Nitti, *Il social. catt.* cap. iii. p. 61.

[18] St. Thomas, II.—II. *Quæst.* LXV. to II.; *Quæst.* LXVI. to II. St. Gregory the Great in *Evang.* hom. ix. n. 7.

[19] Harnack, *l.c.*

[20] Todt, *Il socialismo radicale tedesco*, R. Herrose, 1878, *Prefaz.*

[21] Nitti, *Il social. catt.* 2nd ed. p. 10 *et seq.*

[22] Plato, *Republic*, i. 4. Cf. Fustel de Coulanges in *Comptes rendus de l'académie de sciences morales*, Janvier, 1880; Nitti, *l.c.*

[23] F. T. Perrens, *Histoire de Florence*, Paris, 1877, tom. i. p. 207.

[24] Bebel, cited by Winterer, *Discours prononcé au Congrès social de Liège*, Rixheim, 1887, p. 14. Cf. Nitti, *l.c.*

[25] Valerian, cited by Nitti, *l.c.*

[26] The economist is quoted but not named by De Amicis, *Osservaz. sulla quest. soc.* Lecce, Tip. Coop. 1894, p. 7.

[27] Harnack expresses a similar idea, observing that the Gospel is always and deeply individualist, although referring to the mission of the soul, solidarity and fraternal help; it is only and virtually socialist because it leads to the formation among men of a community, comprehensive as life itself and profound as human need (*L'essenza del Crist*, conf. vi.).

[28] Victor Meunier, *Jésus-Christ devant les conseils de guerre*, as appendix to *Socialisme devant le vieux monde* of V. Considerant, Paris, Librairie Phalanstérienne, 1849. This appendix, which from its deceptive title would appear to be dedicated to the matter of the trial of Jesus, does not even treat of it indirectly. It is a comparative selection of the thoughts of Jesus and the Fathers of the Catholic Church, in opposition to the laws and to the rigours of modern society. The work is dedicated ironically to the citizen Procurator-General of the Republic. Its object is to demonstrate how, if Jesus had been brought before the French tribunals (this is the author's sole reason for mentioning the councils of war, or courts-martial) he would not have fared better than before Caiaphas. Cf. Feugueray, *Essais sur les doctrines politiques de Saint-Thomas d'Aquin.* Paris, 1857; cap. int. *Démocratie des Pères de l'Eglise*, p. 217; Laveleye, *Le socialisme contemporain, Préface*, p. xvii.

[29] *De officiis*, lib. i. cap. xxviii.

[30] *Opera: Regimen pastorale*, c. 22.

[31] *Epist. ad Hedibiam.* Cf. Meunier, *op. cit.* p. 237; Laveleye, *op. cit.* p. xvii.

[32] *Concio de divitiis et paupertate.*

[33] Serm. 64 in *Luc.* cap. xvi.

[34] In *Evangelium Joannis*, vi. 25, 26.

[35] *Apolog.* c. 39.

[36] S. Matthew xix. 16, 30, v. s.

[37] Harnack, *op. cit.* conf. v.

[38] S. Luke xiv. 26. Some—*e.g.* Curci—believe that a misunderstanding has occurred in these words in the first Evangelist, in the text of which an important idiom left in the third had been avoided (the Hebrews having no comparative degrees, used the contrary of the positive to express the least), and that the injunc-

tion read thus: "Qui amat patrem et matrem plusquam me, non est me dignus," and similarly of the sons (S. Matthew x. 37; S. Luke xiv. 26). *Di un socialismo crist.*, etc. cap. vii. par. 11, p. 231.

[39] Harnack, *op. cit.* conf. v.

[40] S. James ii. 6.

[41] S. James ii. 1 *et seq.* C. Renan, *Saint-Paul*, p. 511; Nitti, *Il socialismo*, cap. iii.

[42] v. 7.

[43] xxxiv. 26.

[44] Leviticus xxv. 23.

[45] Deuteronomy xxiii. 15; Exodus xxii. 25, xxiii. 12, xxxii. 13; Leviticus xix. 9; Numbers xxxvi. 6-9; *Ep. ai. Cor.* v. 10, 11, vi. 10 *et seq.* Cf. Sumner Maine, *L'ancien droit*, p. 187.

CHAPTER IV

The Religious Doctrine of Jesus—His Vehemence against the Desecrators of the Temple—High Emoluments of the Priests and Levites—The Interests of the Priesthood bound up with those of the Nation—The Idea of the Theocratic Constitution—The Covenant and the Mosaic Law—The Sanctuary in Jerusalem the Centre of the National Forces—Christ's Attitude neither Theocratic nor Nationalist—The Fulfilment of the Law of Moses—His Resolute Opposition to the Officialism Predominant in Public Worship—At the Well of Sichem—The Fanatics join the Rich in their Hatred of Jesus.

THE second revolutionising blow was to fall on the old and fragile fabric of worship which in Palestine represented the nationalisation of a God exclusive to a privileged people, and the monopoly of a grasping conservative caste: another evident contradiction of the highest conception of a God, Father of the universal family.

Jesus knows the priests, scribes, and Pharisees in Jerusalem to be all equally addicted to trafficking with the faith. One Easter-day He beholds the enclosure of the temple crowded with usurers and money-changers, with animals and the traders selling them for sacrifice. At the sight, laying aside His usual gentleness and twisting a scourge of cords, He upsets the benches, scatters the money, and drives the merchants and beasts out of the temple. Nobody has the courage to oppose Him. All remain aghast at such boldness, but the allegorical words, interpreted in a subversive sense on this occasion, have been preserved: "I am able to destroy the temple of God and to build it in three days." [1]

The scourge had fallen on the officers of the holy trafficking place. The business then carried on by the temple, owing to the comminations of the law and the encouragement given to superstition, had become such a mine of wealth that to disturb the obedience and fervour of contributors meant endangering the revenues and attacking the greed of the priests. To them was assigned a great part of the burnt-offerings; theirs were the first-fruits of the fields and the first-born of the flocks, and even of the men, for whom a proportionate ransom had to be paid; theirs the tithes of all agricultural revenues; theirs a share of the booty in war; theirs the poll-tax of half a shekel on the occasion of a general census; theirs the lands of the faithful consecrated to Jehovah; theirs the offerings brought by the faithful to the temple at the three annual festivals. Augustus himself, who was disposed to act cautiously towards the province of Judæa, being aware of its fanatically religious spirit, ordered the sanctuary to be decorated at his expense. Livia did the same, and the smoke of the burnt sacrifice of a bull and two lambs rose every day before the altar by imperial decree. The Levites attached as ministrants to the priests in the humblest duties of the temple, such as the custody and cleaning of the precincts and the care of its furniture, fleeced the pious flock at second hand, sharing the daily and annual emoluments of the priests.[2]

All this was due to the close solidarity existing between the interests of the nation and those of the priesthood, the incarnation of the theocratic government in whose sight God Himself was the author of the law, the ruler of the nation.

In the Israelite monotheism the law was the humanisation of God. So long as it remained in the mind of Jehovah it would have been an abstract idea and could

not have been a visible manifestation of Him, and in order that God should manifest Himself it was necessary that His law should become humanised in a finite being, and it did this in Israel. In this way the people of Israel became God's chosen people, not because it was Israel, but because it was Jehovist; it was the people of the law because it was the people of Jehovah—the people who proclaimed and obeyed Jehovah and the law. Jehovah, law, Israel, formed one sole idea, the monotheistic idea, in the theocratic land of Moses.

The idea of the Pagan world, though originally starting from man and nature, personified the phenomena of one and the other in creating its divinities, and had to do the same in founding its various political constitutions; it had, that is to say, to centre its social existence in one man or in a gathering of men. In the despotic governments of Asia the despot united in himself the idea of form, of justice, of society itself; in the aristocratic republics of Greece everything centred in the moral entity of the State; in the Roman republic the moral entity was Rome, uniting in itself the whole universe; in a theocratic society such as the Jewish, Jehovah, who represents being, *i.e.* all creation, naturally also represents social existence.

A contract, or covenant as it is called in the Mosaic history—a social contract very different from the one imagined by J. Jacques Rousseau—created the bond between the people and God which contains the law of this people; "a holy people and a kingdom of priests." [8] according to the biblical expression. The primordial constitutions of the new law are communicated by Jehovah Himself to the people when He reveals Himself on Sinai: Jehovah speaks—Moses assembles the delegates of the people and imparts the divine propositions; the people reply by a unanimous shout of assent; Moses

takes the popular consent to Jehovah, and here, between God and the people, the covenant by free and full election is accomplished, binding one to the other and, being declared continuous, will be also binding on future generations. Moses, from whom the Israelitish law has its name, on the day when the people believed themselves to be face to face with God, when the real treaty concerning the new law was promulgated, was only the interpreter of the people. The latter were convinced of having been in direct communication with God, and only from terror at the divine contact delegated their power to Moses. "We ourselves," said the delegates of the people to Moses, "with our own eyes, mortal as they are, have contemplated the divine greatness, but in future approach thou rather and hear all things that the Lord shall speak, and bring them to us." [4] Only by virtue of such a delegation did Moses receive the law for his people—a law divine, not only in its origin, but in its full application, so that the priests alone can act as its interpreters and executors.

At the time of Jesus, the Jehovist priesthood strained every nerve to preserve the traditions, the bonds of connection, and, above all, the advantages accruing from the mystical sentiment of the people vaunting itself divine. But by this time Israel had become no more than the shadow of itself: the schools and sects had conquered it, the Roman eagles had torn it, the holy city meant no more than the chief city of a humble province annexed by Rome, and was compelled to tolerate within its walls an imperial garrison—which to the Jews meant a permanent sin of idolatry. The priesthood was a centre in the sanctuary for all the scattered forces of the faith, and more than ever directed urgent appeals to the people to turn with patience and confidence to Jehovah, the author of its law and civil constitution.

In proportion as this appeal was responded to, priestly interests throve, but these declined from time to time when the appeal failed, as it did occasionally. All the rights of the priesthood rested on the triumph of the national idea: every act of recognition of these rights was a step towards the glory of Jehovah and of the nation: woe then to the priests if they went to sleep upon their slender laurels! A few years' lethargy would have decided their irreparable ruin. Hence every manifestation of popular sentiment, every sacred or national festival, took place in the sanctuary; the concourse of the people brought profit to the priesthood; but at the same time, Jehovah, the national idea, triumphed.[5]

Jesus, neither theocratic nor nationalist, necessarily a stranger to political interests and compromises, consistently adverse to the sacrilegious paradox of an earthly kingdom of God, could not countenance a religion which was at once a legal institution and a patriotic expedient. By His indignant action against the traffickers in the temple, as by His whole teaching, He does not combat the sentiment of the faith, but He strips it of the laurels and parasitical suckers of personal and national vested interests.

His action and His doctrine are not a negation of or a slur on the law of Moses, but its fulfilment and consummation. He can say: "Think not that I am come to destroy the law and the prophets. I am not come to destroy, but to fulfil." [6]

Moses was the legislator of deeds, Jesus of the soul. Moses prohibited murder, Jesus hatred itself; Moses adultery, Jesus even an impure thought; Moses perjury, Jesus the oath itself. Moses, as a measure of justice, conceded an eye for an eye, a tooth for a tooth; Jesus points to no other justice than forgiveness. Moses said: "Judge with wisdom and without guile," Jesus

says: "Judge not, lest ye be judged." Moses reconciled masters and slaves; Jesus desires that there shall only be brothers. Moses commanded the good use of riches; Jesus urges the use in common of the fruits, if not community of possession of all property. Moses, making laws for the Hebrew people, took thought for the exceptions; Jesus dictating one sole law of love for the human species, legislated for the universe. Moses established the worship and prestige of the temple; Jesus erects an altar in every heart capable of purity or repentance, of perfection or of sacrifice. Moses recommended respect for age and childhood; Jesus for all the weak and disinherited, even for forlorn women. Moses proclaimed the indissoluble nature of the contract between the people and the natural law, so soon to harden and crystallise under the impulse of universal progress; Jesus affirms the perfectibility of human nature and of every law which governs it, and He imparts to it the impress of immortal life with the freedom and infinite worth of the soul that is stirred by the creative breath of divine love.[7] But to the interested upholders of the Mosaic law the work of Jesus did not mean fulfilment, but subversion, as being directed in its general tendency and results against its official conductors of public worship acting as interpreters and greedy custodians of the law.

The allusion to the destruction of the temple, which will also form one of the heads of indictment before the Sanhedrin of Jerusalem, was only a sort of hypothesis or hyperbole bearing a perfectly innocent signification, as will be shown; but other declarations of Jesus are clear and irrefutable as to the fact of His repudiating the whole official system of public worship.

One day after He had won in the holy city itself numerous admirers and followers, among whom was

the rich Pharisee Nicodemus, wishing to return to His own Galilee, He started for Samaria. He might have taken another route passing through Perea, crossing the Jordan and going up the river again on the other side, but He had a special and well-considered reason for His choice.[8]

In consequence of ancient feuds Samaria was most hostile to Judæa, while as to its religion, it was more heretical than Gentile. The Jews avoided Samaria in their journeyings for fear of being contaminated or of lightly exposing themselves to affronts: Jesus, on the contrary, prefers to pass through it, and while crossing the vale of Sichem stops at a well to rest. A woman comes to draw water, and Jesus asks her to give Him to drink. The woman, having recognised Him as a Judæan by His accent, is astonished, and observes:

"How is that Thou, being a Jew, askest drink of me, which am a woman of Samaria? for the Jews have no dealings with the Samaritans."

Jesus gives to the conversation a spiritual turn and tries to rouse celestial feelings in that simple soul. But the woman insists: "Our fathers worshipped in this mountain; and ye say, that in Jerusalem is the place where men ought to worship."

And Jesus rejoins: "Woman, believe Me, the hour cometh when ye shall neither in this mountain, nor yet at Jerusalem, worship the Father. But the true worshippers shall worship the Father in spirit and in truth, for the Father seeketh such to worship Him. God is a Spirit, and they that worship Him must worship Him in spirit and in truth." [9]

Eternal and irrefutable words, the synthesis of the whole religion of Jesus!

"These words alone," exclaims Giuseppe Mazzini, "would suffice to establish the superiority of Christianity

over all other creeds—the great thinkers from Socrates and Plato to those of our own time predicted the fall of one faith and the rise of another; but not one foretold like Jesus the true nature of a future faith." [10]

Were these words reported to the Pharisees and other hypocrites interested in the faith and in the shekels of the temple? It is certain that the Master did not refrain from repeating them in every form. In one of His most expressive parables He gives a conclusive illustration of the same thought: a man goes from Jerusalem to Jericho and falls among thieves, who strip him and leave him severely hurt on the roadside. A priest comes along, but passes him by; a Levite also passes without stopping; but a certain Samaritan pauses, succours the distressed man, and takes care of him.[11]

The religious profession contained in His words at the well of Sichem formed a contrast with the words of the law:—

"But unto the place which the Lord your God shall choose out of all your tribes to put His name there, even unto His habitation shall ye seek, and thither thou shalt come. And thither ye shall bring your burnt-offerings, and your sacrifices, and your tithes, and heave offerings of your hand, and your vows, and your free-will offerings, and the firstlings of your herds and of your flocks." "Take heed to thyself that thou offer not thy burnt-offerings in every place that thou seest." [12]

And we know what place Jehovah had chosen from amongst all the tribes for his worship and habitation, and best of all was it known to the Jerusalem interpreters, that Jehovah was domiciled in Jerusalem! That this commandment lacked His own sanction is shown by the omission of any penalty for non-observers: the biblical text does not even allude generically to such a penalty.[13] However the legal definitions of the crime of

blasphemy (*ghiduf*) with which Jesus was charged later, and on various grounds in the Sanhedrin, might apply to the fact of one proclaiming Himself to be the Messiah, they could not be strained to incriminate one who, like Jesus, had up to that time done no more than decline to recognise and favour the hierarchic privileges of Jerusalem, any more than the popular prejudice of Ebal or Gerizim.

Christ's attitude on this point could only be regarded as a negative one, and it does not appear to have been considered otherwise by His enemies. But it was to be remembered against Him and to be brought forward to His prejudice in the characteristic notes of the charges to be alleged against Him—all being regarded as the tendencies and manifestations of a suspected man incriminating his whole political and religious conduct—or, as it is barbarously expressed by the unblushing political neologists of our own day in their judicial prose, "the misconduct of the bad citizen"!

And thus, to the alarm of the rich threatened in their avarice is added the offended superstition of the fanatic haters of against Jesus!

NOTES

[1] S. Matthew xxvi. 61; S. Mark xiv. 58, xv. 29; S. John ii. 18 *et seq.* The temple was the second one, built by Zorobabel.

[2] Levi, *Sulla teocrazia Mosaica*, Florence, Le Monnier, 1865, pp. 129, 140. The author of this lucid and learned book declares himself "solemnly and openly to be a Hebrew by confession and conviction," and is not therefore to be suspected of exaggeration in this and other similar statements.

[3] Exodus xix. 3, 6, 7; Genesis xvii. 2, 4, xxii. 18.

[4] Deuteronomy v. 24-7.

[5] Levi, *op. cit.*

[6] St. Matthew v. 17: *Non veni solvere sed adimplere.*

[7] Cf. Petruccelli, *op. cit.* vol. ii. p. 180.

[8] S. John iv. 3, 4. It is not understood why this Evangelist should here speak of the necessity for Jesus to return to Galilee by way of Samaria (*oportebat autem eum transire per Samariam*).

[9] S. John iv. 7-24. Sichar and not Sichem appears in the text, but S. Jerome (in *Epistaph. Paulæ*) shows that Sichar was the old Sichem (Genesis xxxiv. 25-7, xlviii. 22). Eusebius, however (*Onomasticon*), calls Sichem Sichar, which was known later as Neapolis and is now called Naplusa (see also Deuteronomy xxvii. 4, 12); and at the present time, at a distance of not more than twenty-five minutes' journey from Naplusa, in the road leading from the valley of Mokua and the valley of Sichem, travellers are shown the well or fountain of Jacob, now known as Bir-Jakub. The mountain pointed out by the Samaritan woman must have been Gerizim or Ebal, on which, according to biblical tradition, God caused an altar to be erected unto Himself. The Samaritan codices have Gerizim for Ebal. Renan is of opinion that the historical reality of the conversation of Jesus with the Samaritan woman at the well of Sichem need not be too much insisted upon, since only Jesus Himself or His interlocutrix could have spoken about it (*Vie*, ch. xiv. note at the end). And why not? It is not said that Jesus mentioned it to His disciples, who returned shortly afterwards from the city, where they had gone to buy food (S. John iv. 8, 27), but it is expressly stated by S. John that the woman spoke of it, or commenced doing so, to some neighbours and gossips in the town when she left her pitcher at the well and went into the town saying, "Come and see a man who hath told me all things whatsoever I have done" (iv. 28, 29). May it not be supposed that she told all the rest? - a woman too!

[10] *Dal concilio a Dio*, par. vii. Mazzini expresses elsewhere too his favourable opinion of Christianity. See, for example, *I sistemi e la democrazia*, par. 1.

[11] St. Luke x. 30 *et seq.*

[12] Deuteronomy xii, 5, 6, 11, 13.

[13] Deuteronomy: see the whole of chap. xii.

CHAPTER V

The Political Doctrine of Jesus—His Indifference to Established Institutions—The Law founded on Force, but the Moral Law of Jesus confided to the Liberty of the Soul—Neither Conflict nor Adhesion between Divine and Human Authority—Tribute to Cæsar—The Individualism of Jesus representing the Integrity of Manhood as against the Claims of Citizenship—Renunciation of the Law and Indifference to Institutions do not conflict with True Justice or the Combative Element in Life, nor with Labour or the Progress of Civilisation—All the Less Reason was there that any such Conflict should exist in Ancient Palestine—Jesus did not compete for Political Power.

THE blow dealt against civil institutions was no direct attack, but response by reaction which was none the less effective.

The relation between Gospel and law is a matter of absolute indifference. All the originality of the reform preached by Jesus in relation to the State consists in rendering some indifferent to endure; others indifferent to exercise civil power. You know, He says to His followers, "the princes of the Gentiles exercise dominion over them, and they that are great exercise authority upon them. But it shall not be so among you: but whosoever will be great among you, let him be your minister; and whosoever will be chief among you, let him be your servant."[1] This is an absolute inversion of values: the ordinary conception of authority is turned upside-down.

Thus act the powerful, but the disciples and followers of Jesus in all times must do the contrary. Thus act

the powerful, and will continue so acting so long as those who are not actuated by altogether opposite sentiments will let them, and who therefore support them now in their authority. The law, be it of Rome or of other nations, is founded in its essential nature on force: "A ferocious force possesses the world, and calls itself law."

All institutions rest on no other basis. Now the kingdom of God announced by the good tidings knows of no other than moral force; knows no other law of this force than the liberty of the soul; knows no other law than that which comes from God—a law intelligible as a just compensation, and that every one obeys for its justice, and not as a gracious concession, nor as a social contract; a law which in order to triumph has no need of force, and will, on the contrary, triumph over force itself. Hence the Master admonishes: "I say unto you, Resist not evil; but whosoever shall smite thee on thy right cheek, turn to him the other also. And if any man will sue thee at the law and take away thy coat, let him have thy cloke also." [2] And concluding: "Judge not, that ye be not judged." [3]

The law and the established institutions can have no value by the side of the doctrine of Jesus; and He does not teach to elude them, but to estimate them at their proper value. Questioned on the fiscal demands of Rome, His advice is to satisfy them. Is it a question of giving a coin to Cæsar who exacts it? Let it be given unto him.[4] It is a poor enough thing if the majesty of an Emperor has to consist solely in that. Nevertheless the error of making Jesus the upholder of undermined thrones and tottering Powers, and supposing a parallelism of two authorities, one in correspondence with the other, is not generally recognised. On the contrary, He makes so great a difference, so profound a separation,

between them, that conflict is just as much impossible as conciliation. The relation which Jesus enjoins towards constituted authority is one of neutrality and toleration; but as to the esteem in which He holds it, and teaches that it should be held, His idea is merely negative.[5] Tolerating force and not rebelling against it, being neutral towards the conquests and exactions of evil, signify the opposite of supporting it or cringing to it. The wayfarer who is assaulted and who yields up his purse to the robber, even as the Hebrew in the Roman province pays the tribute to Tiberius, neither approves nor favours the violence done him, while enduring it.

Meanwhile, if every one had already in the time of Jesus followed His doctrine of indifference and neutrality towards existing institutions, the Emperor, were he even Tiberius, would have had no more support from his subjects and would have been divested of all his terrible empire. When a government ceases to excite repulsion in some or to attract others, it has no longer any reason for existence nor power of duration. "In this way," observes one of our best authors, "Jesus was forming citizens who could never become soldiers nor magistrates nor courtiers, nor subjects nor rebels, and who could never have upheld a government of this world."[6] But of what world? we ask the acute observer. Certainly not of the Jewish world, still less of our modern world. But whoever believes in the perfectibility of the human species, whoever hopes with the prophet that the time may come when swords shall be turned into ploughshares and lances into sickles, and, above all, a true and perfect Christian who trusts and follows entirely the teaching of Jesus, cannot desire a different world nor better citizens.

"And meanwhile," observes another no less broad and eminent thinker, "those citizens humbled themselves to

become great, abased themselves to become glorious, they gave themselves to the contemplation of death, common to all men as the price of eternal, individual life, they forgot all and everything to remember always themselves and their individuality, they sought self-forgetfulness by the apotheosis of self." [7] And all this was the necessary consequence of the exalted conception of individuality held in the doctrine of their Master: a reaction against the prevalence of the conception of man as a citizen, and a step towards the integration of man, the antithesis of the individual to the almost impersonal collectivity of the State.

The Roman world, which placed before men the most exalted and coveted objects in life, seemed to be the most humane among empires, but it was not so. To be so, it should have been able to unite the citizen with the individual, the *civis romanus* with the *homo*, and to allow the individual to assert himself by his personal worth and not as an organic institution recognised and consecrated.[8] Jesus, on the other hand, having unconsecrated the citizen become an institution, emancipates man born free in his own infinite perfectibility, and this emancipation is worth all his life as the price of ransom. Having refused to recognise any other power, and admitting only the kingdom of God, He declares every man to be a free citizen of this kingdom and proclaims its sovereignty. Woe to him who shall dare to attack or obscure it! On this single sovereignty rests the vision of a human society, no longer upheld by law which asserts itself by means of force, but by the free obedience of men to right—a society no longer bound together by juridical institutions, but by the reciprocity of duty and love. It was in this sense that I pointed out before that the society desired by Jesus is comparable not so much to the socialistic *régime*, as to a mild, sweet, and holy

anarchy, taking this word to mean simply the negation of every government and institution.

The victory of right, which comes from God, belongs neither to the solicitous nor to the cunning and violent, but to the oppressed, who will see their own right triumph. And this attitude of resignation, this expectation of a triumph entirely inward and moral, does not contradict the human theme of a society which should evolve itself to the highest perfection.

The iniquity of the world is so great, its injustice so profound, the conception of right so artificial and conventional, that the oppressed cannot succeed even if they try to make their reasons heard, and there are not a few who are satisfied with the consciousness of right or renounce voluntarily any claim for justice on account of wrongs suffered, especially if they are animated by superior sentiments of generosity and self-denial or bound by ties of affection, relationship, or friendship. "Are we not accustomed to act thus among our families and friends?" asks Adolf Harnack.[9] Are we not taught not to return evil for evil, insult for insult? What family, what company of friends, could exist if every individual thought solely of maintaining his own rights, and were not taught to renounce them, even before unjust aggression? Now Jesus depicts the earthly kingdom of God—society as rendered perfect by His teaching—as a future universal family in which will be found inherent and spontaneous the sacrifices and transitions already possible and real, though in lesser proportion in a small family of to-day. But these renunciations and compromises, if they do not signify resistance to wrong from those who suffer, do not excuse those who are able to employ the smallest force to fight against wrong in defence of their neighbour who may be suffering from it. According to the teach-

ing and example of Jesus, he who would follow Him, far from retiring to live alone in inactivity and self-abandonment, must take up his cross, and choose, according to his own particular aptitude, his position in the fight against the irreconcilable enemies of the great truth taught by Him—egoism, injustice, hypocrisy. Jesus did not preach a general renunciation of the struggle against these enemies—He did not enjoin flight, which would leave them victorious and unconquered; on the contrary, He has imposed vigilance to the point of sacrifice, danger to the point of death, for their confusion and annihilation. His first disciples go about announcing the good tidings like sheep among wolves; He recommends them to be simple as doves, wise as serpents, but He also exhorts them not to fear those who kill the body but cannot kill the soul. It is false, therefore, that the teaching of Christ disheartens a man ready to fight, and that it is contrary to vigorous and combative natures. Its Spirit is, on the contrary, liberal and active, which neither implies the negation of the world nor an inert asceticism—unless for such as are really unfit for the fight—while from all His other followers He requires only the renunciation resulting from the sacrifice made in defending the right of others. In the struggle for goodness there is much hidden though strenuous courage, which fights in silence and darkness with a tenacity and vigour which overcome the violence and fraud with which the two-headed tyranny of wrong is wont to clothe itself. There are sacrifices, obscure, but magnanimous, which resist and react against the attractive and triumphant arts of gold and power; there are victories unknown, but valiantly won, which receive no prize of fame and no greeting by sound of trumpet. The life of the Spirit, active charity, contented abnegation, poverty sustained with dignity, are battle-fields in which the heroes

of virtue and sacrifice, the heroes of the love of God, display the greatest boldness, the most indomitable energy.[10]

And yet some people have pointed to a profound defect in the teaching of Jesus, as viewed in relation to political and social questions, maintaining it to be unadaptable to civil life, because extraneous, if not opposed, to the work and progress of civilisation. "But although civil work and progress," replied Adolf Harnack, "are very precious blessings, and worthy of our greatest endeavours, they do not represent the supreme ideal and cannot give to the soul its truest happiness. Work is a source of happiness; and the joys of work can only be acquired through hardship and obstinate, painful endeavour." "In this exaltation of work," continues the authoritative rationalist, "there is much rhetoric and much hypocrisy. Human labour, as regards more than three parts of it, is fatigue that stupefies. One man who knows what such labour is tells how much truth there is in the poet's yearning for the coming of night, when head, feet, and hands rejoice, for the day's toil is over. He knows that if he had to begin again, after the task were done, the instruments of work would fall like a dead weight on soul and mind; he knows that the labour which is merely labour can only result in nausea, as it appears to Faust, whose soul asks compensation and cries 'Let us drink from the river of life—from its source'!"

Work is a safety-valve that saves us from greater evils, but it is not in itself a good, much less an ideal. The same may be said of the progress of civilisation. No one underrates its value, but that which to-day is a condition of progress, which cheers and exalts us, will be to-morrow a vulgar mechanical thing that will leave us indifferent. The man who looks deeply into things receives with gratitude the benefits of progress, but

knows that his inner life, the questions which occupy and stir him, the fundamental relations in which he lives, will in reality remain unchanged, or be changed only superficially. The lively impression of novelty and comfort which it brings us are but of momentary duration. A man of advancing years, with a life's experience, who has formed for himself an inner world, receives almost no further stimulus from the doings of the external world, and the progress of civilisation; on the contrary, the more he is disposed to recognise that the civilisation of his day has risen to one of its higher grades, the more does he perceive that he himself has not changed his place, and that he needs those same powers from which his predecessors derived comfort, the moral forces of love and faith; and he recognises, even though he may not say so, that this is the foundation of the truth announced by the Nazarene.[11]

At any rate, was it the problem of combative life, which is presumed to be discouraged rather than animated by the teachings of Jesus, which could pre-occupy the minds and oppose the laws of His contemporaries? Or could it be the problem of labour depreciated and weakened, or the progress of civilisation arrested and opposed?

It has already been observed how obtuse and conservative was the nature of the Hebrew people. Not born to industry, debarred from art, abhorring pomp, they had watched with sorrow the development of commerce and the flow of wealth penetrating their land from without. They looked upon Roman magnificence as a sin of idolatry, rather than an act of violence; they barely tolerated their own law of property, and only within the strictest limitations, and even then regarded it as more or less sinful; they regarded poverty as holy and meritorious; the voice of their prophets was a constant invocation to the

simplicity of the old lost life, and almost all their sects, however discordant among themselves, were united on the question of the negation of the world and the necessity of privation. Only one gleam in the darkness opened an outlet for aspiration toward a mystic but indefinite and confused ideal. In the midst of this people the word of Jesus sounded quite other than depressing, or as dulling the sense of common needs and appeals. Solidarity taught as an active law of the universal structure inspired love as the living flame of every human relation; individuality raised to the degree of divine sovereignty, the struggle against evil commanded to the last sacrifice, selfish care for earthly things, unforgivingness, private property only allowed in the public service, in favour of one's neighbour, the idolatry of the Cæsars condemned, like every other Power, to fall of itself, the abuse of the weak condemned as an attack upon the majesty of the citizen of God; disdain for those who have succumbed to sin, substituted by their redemption —the superhuman ideal exalted and extended beyond all limits of purity and simplicity:—these chief items in the teachings of Jesus were the fulfilment, and not the abrogation, of the law of Moses and the word of the prophets.

The fact is, that Jesus placed the superhuman ideal, which the people of Israel conceived of as one that was nationally and peculiarly their own, so high, that they saw that something escaped them which yet intimately belonged to them, that their God was being taken from them. That small chink, which in the darkness of dull souls opened a way to the popular ideal of Palestine, was so burst open and expanded by Jesus, that it emitted rays of most vivid light—with waves of warm and fertilising air, the forerunners of great but beneficent storms.

All this disturbed the traditions and intellectual habits, if not the equilibrium of the patriotic forces of a people profoundly unlearned and nationalist. The spirit and interests of conservation, and naught else, were attacked by the teaching of Jesus—but reflexively, not by what His doctrine took away from the law and institutions, but by all that it implied that was great, high, and exalted beyond the law and institutions. The integrity of the law, regarded in its letter and immediate application, received no derogation, nor was the security of existing institutions in any way threatened, still less was there any question of personal jealousy of the political power. Concerning that jealousy, it is sufficient for the present to point out (we shall return to the matter later on) that the whole conduct of Jesus towards established Powers was one of rejection and not of competition.

When they desire to make Him king, He escapes from the multitude; when at the gates of Jerusalem He is followed by the greatest popular enthusiasm, He is solicitous to represent the fact to be a fulfilment of prophecy and to deprive it of any significance as a public demonstration; and when before His judges He is questioned upon the capital charge, He repeats once more that His kingdom is not of this world.

"Jesus of Nazareth King of the Jews" was the description given of a crime that Jesus had not even conceived, still less committed; it was an evident and vulgar irony.

Notes

[1] S. Matthew xx. 25-7.
[2] S. Matthew v. 39, 40.
[3] S. Matthew vii. 1.
[4] S. Luke xx. 22, *et seq.*
[5] Harnack, *L'essenza del Crist.* conf. vi.
[6] Ellero, *La questione sociale*, Bologna, 1877, cap. 1.
[7] Bovio, *Corso di scienza del diritto*, lez. vi. Cf. *Disegno d' una storia del diritto in Italia.*
[8] Bovio, *Corso di scienza, l.c.*
[9] *L'essenza del Crist.* conf. vi.
[10] U. Cosmo, in an honestly written little book entitled *Gli eroi dell' amor di Dio*, treats of the principal hero, whom he regards as S. Francis (Verona, Drucker, 1896). V. Hugo (*Les Misérables*, liv. iv.) justly raises to the rank of heroes all the poor wretches who victoriously struggle against the trials of their miserable lot.
[11] *L'ess. del Crist.* conf. vii. Harnack entertained a personal and perhaps traditional preference for Protestantism as compared with Catholicism, and this may be traced in some of the profound thoughts which he has given to the world. His authority, however, is singularly great in matters into which this leaning does not enter, and is indeed such that a better cannot be recalled, although lately some adversaries, fighting with disloyal weapons, have opposed him not as "an honourable adversary with whom one may differ upon the more or less," but as an author "of historical falsehoods and of puerile dialectic" (*Civiltà Cattolica*, an. liv. vol. ix. pp. 515, 523). See, on the other hand, the same Catholic critic regarding Harnack: *Le vie della fede*, Rome, 1903, p. 43; *Cultura sociale*, December 16, 1902, p. 380; Alfr. Loisy, *L'Evangile et l'Eglise*, Paris, 1903.

CHAPTER VI

Propaganda and Associations—No one a Prophet in his own Country—At Nazareth, Capernaum, and Gennesaret—The Twelve Apostles—Men and Women following Him—The Familiarity and Benignity of Jesus at Popular Festivals—Hypocrites scandalised—Originality and Charm of His Words—His Style—His Invectives against Hypocrisy, Instrument of Fraud and Cause of Disunion—Authoritative Admirers—First Councils Adverse to Impunity—The Amours of Antipater and Herodias hasten the Death of the Baptist—The Tetrarch wishes to see Jesus.

Here it becomes necessary to retrace the course of events in the life of Jesus in relation to the susceptibilities of the State, which will one day have a furious awakening and descend in its wrath upon His innocent head, with the cunning and fell purpose of conservative passion. At Nazareth, where the Master announced the good tidings, He is met with incredulity and wonder. "Is He not," asked the Nazarenes, "that carpenter, the son of Joseph and Mary, whose father and mother we know?"[1] those not of Nazareth adding: "Can there be any good thing come out of Nazareth?"[2] His relations think He is beside Himself.[3] Galilee was in every respect less arid and more fertile than Judæa; the green luxuriant landscape combined extreme sweetness with a profound melancholy. The new ideas of the zealots of the Mosaic dispensation either did not penetrate so far or did not raise the bitter, uncontrollable passions that raged in Judæa, and above all in Jerusalem. Rabbis, reformers,

and sectaries were not wanting here, but the Pharisees, who elsewhere formed the strongest and most hateful sect, were in the minority. Hence the Master of Nazareth could not meet with anything worse than incredulity and wonder.

But this does not dishearten Him. He thinks and says that no one is a prophet in his own country,[4] and goes to Capernaum, a city of Galilee near the lake of Gennesaret. And as at Nazareth on the mount,[5] so at Capernaum in the synagogue [6] and at Gennesaret on the lake,[7] He carries out His mission. Meanwhile to a daily and active propaganda [8] is added a vast spontaneous concourse; [9] propaganda and concourse: the two eternal terms of definition for the crime of treason to the State.

Jesus is no longer alone. Some disciples of humble condition gather around Him in fraternal intercourse, twelve of whom became his apostles or missionaries later on. The twelve are mostly fishermen from the lake of Gennesaret; the most cultured among them being a revenue official named Matthew.[10] The disciple whose energy confers upon him most authority among his brethren is Simon Peter, from Bethsaida; Judas Iscariot acts as treasurer for them all. The youngest and best beloved of the Master is John, who on every occasion, at the Supper, the Crucifixion, at the Sepulchre, occupies the first place.[11] One of the twelve will betray Him.

The women [12] join the men, providing for the support of the party: Mary, from the little town of Magdala—hence called Magdalena; Salome, mother of the disciples James and John; Joanna, wife of Chuza, one of Herod's stewards; and not a few others constantly follow the Nazarene, and will accompany Him one day to the foot of the cross.

He lived in the freest intimacy with His followers, and almost always in the open air; so much so that He used

to say: "The foxes have holes, and the birds of the air have nests; but the Son of Man hath not where to lay His head." [13]

Sometimes he did not disdain the hospitality of the humblest and of the worst, for which he was bitterly reproached by many. The scribes and Pharisees said unto Him: "Why do the disciples of John fast often and make prayers, and likewise the Pharisees, but thine eat and drink with publicans and sinners." [14] And the Master replied: "Whereunto shall I liken the men of this generation? and to what are they like? For John the Baptist came neither eating bread nor drinking wine; and ye say, He hath a devil. The Son of Man is come eating and drinking: and ye say, Behold a gluttonous man, and a winebibber, a friend of publicans and sinners!" [15] And He added, with the most inspired uplifting of the disinherited and the most crushing mortification of the hypocrites: "Verily I say unto you, That the publicans and the harlots go into the kingdom of Heaven before you." [16]

He loved the fields, the sea, and children, and these happy images figured brightly and spontaneously in His conversation, which overflowed with the love and gentleness that filled His soul. His style, such as we may gather it to have been from the text of the Gospels, was not Greek in character, but rather approached the manner of the Hebrew parabolist, and particularly the phrasing of contemporary Jewish doctors, as we find it in the Pirke Abothe and in the Talmud; in fact, He excelled chiefly in parable. In developing His views in conversation, He was sparing of words and proceeded by *surate*, but for the originality and efficacy of His words, Judaism had afforded Him no model.[17] He preached as one having authority, not like the scribes; His words were words of life, seeds which germinated and produced

fruit; these were the new, original, unequalled, sublime elements of His teaching. By the charm of His thought and word, Jesus conducts His propaganda through Galilee amid the ever-growing favour of His hearers. Men fallen to the depths of social degradation, who in the tangled words of a hundred sects that flourished amongst them had not found the way of salvation, were attracted by a penetrating glance from Him, by one suggestive word, and became His faithful, inseparable followers. Weak and guilty women, drawn by His purity, feel in Him the regenerating contact of virtue, and follow Him with the most intense fervour; grief-stricken mothers, intrepid in their maternal affection, bring their children that He may touch them, strengthen them, or heal them. Hence, in certain respects Renan was right in concluding that the propaganda and the following of Jesus was a movement started by women and children.[17a]

Just because the movement was such in part, and especially in the beginning, the fact of the large following could not have occasioned the State more uneasiness with regard to the Master of Nazareth than that caused by His propaganda.

Sometimes His words are vehement and contumelious; and then He made enemies; but these were only the Pharisees and other hypocrites, to whom alone Jesus, lucid and polished speaker, addressed Himself with vehemence and invective. The good tidings announced by Him were the establishment of truth on earth and the liberation of man from all falsehood. This brings the worst shame and the greatest harm to humanity—and with regard to the doctrine of Jesus it is a practical contradiction to the infinite perfection of the soul, to brotherhood itself, and universal solidarity. In fact, falsehood creates disunion, deceit, treachery—the attitude of man, who is a fox towards man when the latter

is not a wolf, according to the latest form of evolution of the animal struggle for existence, in which fraud at last takes the place of violence. Thus the highest principle of social justice, such as the conception of the kingdom of Heaven, becomes idle, if the life of society, turning upon its fixed pivot in an inverted order, disavows at every moment the political and moral principles on which it is founded; if it is inclined to contradict in its customs its knowledge of the truth, and is in the habit of simulating faith in what it does not believe, of esteeming what it does not esteem, and of doing and tolerating things which admit neither of toleration nor compromise. If it were not for hypocrisy, which means playing a part, men would not much longer, nor with such general readiness, act the part which suits their nature and their place in the vulgar comedy of life, according to the dictates of the falsest and most artificial conventionality, and sustained by the double force of conventional and legal make-believe. Hypocrisy is sometimes religious, consisting in the monstrous union of sanctity of form with impious acts; sometimes legal, when it takes advantage of the unexceptional and obsequious observance of laws and customs, to gain an easy and mendacious justification in that profound struggle which goes on in every man's heart between conscience and life.

The Pharisees, contemporaries of Jesus, were legal hypocrites, because they masked iniquity and perfidy under the most pedantic and astute observance of the law; and to them were addressed the only words of invective and malediction which Jesus ever uttered.

Sometimes his contempt took no other form than that of impetuous invective: "Woe unto you, scribes and Pharisees, hypocrites! for ye devour widows' houses, and for a pretence make long prayer: therefore

ye shall receive the greater damnation. Woe unto you ye blind guides, which say, Whosoever shall swear by the temple, it is nothing; but whosoever shall swear by the gold of the temple, he is a debtor! Woe unto you scribes and Pharisees, hypocrites! for ye pay tithe of mint and anise and cummin, and have left the weightier matters of the law, judgment, mercy, and faith. . . . Ye serpents, ye generation of vipers, how can ye escape the judgment of hell? . . . That upon you may come all the righteous blood that hath been shed upon the earth, from the blood of righteous Abel even unto the blood of Zacharias son of Barachias, whom ye slew between the temple and the altar." [18]

Sometimes the attack was indirect, because he confined Himself to urging them to act differently from the hypocrites: "Take heed that ye do not your alms before men, to be seen of them. Therefore when thou doest thine alms, sound not a trumpet before thee, as the hypocrites do in the synagogues and in the streets, that they may have glory of men. Verily I say unto you, They have their reward. But when thou doest alms, let not thy left hand know what thy right hand doeth. That thine alms may be in secret: and Thy Father which seeth in secret shall reward thee openly." [19]

And again, and how humanly!—"Moreover, when ye fast, be not, as the hypocrites, of a sad countenance: for they disfigure their faces, that they may appear unto men to fast. But thou, when thou fastest, anoint thine head, and wash thy face." [20]

And again, and divinely: "Therefore if thou bring thy gift to the altar, and there rememberest that thy brother hath ought against thee; leave there thy gift before the altar, and go thy way; first be reconciled to thy brother, and then come and offer thy gift." [21] A wonderful parable shows his acute, mordant thought

concerning the sincerity and purity of the soul compared with and in condemnation of conventional mendacious forms: "Two men went up into the temple to pray; the one a Pharisee, and the other a publican. The Pharisee stood and prayed thus with himself, O God, I thank thee, that I am not as other men are, extortioners, unjust, adulterers, or even as this publican. I fast twice in the week, I give tithes of all that I possess. And the publican, standing afar off would not so much as lift up his eyes to heaven, but smote his breast, saying, O God be merciful to me a sinner. I tell you, this man went down into his house justified rather than the other; because every one that exalteth himself shall be abased, and he that humbleth himself shall be exalted." [22]

And even in external conduct and in forms of speech Jesus condemns artifices, and urges simplicity and frankness. "Neither shalt thou swear by thy head, because thou canst not make one hair white or black. But let your communication be, Yea, yea: Nay, nay: for whatsoever is more than these cometh of evil." [23] Sometimes His irony does not spare the wicked: and His subtle raillery, His barbed shafts, go straight to the heart, where they remain planted as eternal stigmata in the wound. "This shirt of Nessus," says Renan, "which for so many centuries the Hebrew has trailed after him in rags, was woven by Jesus with divine art." Masterpieces of scorn, His darts cut fiery lines in the flesh of the hypocrites and the false devotees; incomparable darts worthy of a Son of God! Socrates and Molière only graze the skin; the fiery reproof of Jesus pierces to the marrow of the bones.[24] But it was written that at the end of His mission He should pay with His life for the triumph of the truth. The Pharisees, the scribes, the false devotees, were the tenacious

custodians of orthodox Judaism and personified the tradition, authority, and fortune of the temple, which meant also the fortune of the nation. Hence this private and not public hatred, but none the less terrible and powerful, which could only be quenched in blood.

Almost as if to call down more speedily this vengeance upon His head, we have that sudden outburst of indignation against the desecrating traffickers in the temple which He will be charged with when brought before His judges, when also the subversive words which He uttered on that occasion will be especially brought up against Him. Meanwhile, however, He is winning adherents and followers in the holy city itself. Nicodemus, a rich Pharisee, a member of the Sanhedrin and an esteemed citizen of Jerusalem, becomes His friend.[25] But Jesus does not trust too much to this new favour, and prepares to return to Galilee, passing through Samaria.[26] On returning to Jerusalem He hears of two events which imperil the safety of His mission.[27] In April of the year 29 the Baptist had been put to death by order of Antipater, son of Herod the Great, called Herod himself, King of Perea and Galilee; and shortly after there is a rumour that the tetrarch wishes to see Jesus.

This little Herod, corrupt and imbecile, being determined to remove the Baptist, added to an easily alleged reason of State an entirely personal question. Blinded by passion for Herodias, his sister-in-law, he had been drawn into seducing and then marrying her after repudiating his wife, Herodias being still bound to her own first husband. The austere censor from the desert echoed the universal indignation felt against this iniquitous marriage; but for his open and unsparing rebuke he was arrested and shut up in the fortress of Machero.

Perhaps Antipater did not desire his death, inasmuch as his imprisonment lasted six months; and during that

time the Baptist frequently corresponded from the depths of his prison with his followers, and perhaps also with those of Jesus.[28] But Herodias could only be satisfied by his blood, and in this horrible vengeance she made Salome (her daughter by her first marriage) her accomplice. One day, at a celebration of the birthday of this beautiful but perverse girl, the latter executed a characteristic dance after supper, which so fascinated Antipater, who was perhaps already overcome by wine, that he asked her what she desired. The girl, at the instigation of her mother, unhesitatingly asked for the head of John the Baptist. Soon after one of the guards brought on a salver the head of the prisoner, and handed it to the girl, who delivered it to her mother.[29]

The story is not very original, as the figure of Herodias, who desires the death of John, is modelled on that of Jezebel, who desired the death of Elias and of Naboth. The scene of the seduction is taken from the story of Esther. The tetrarch Antipater makes to the daughter of Herodias the same offer which King Ahasuerus made to Esther,[30] but still, all this does not prove that the story was invented. Tradition, which creates a likely retribution in default of a proven one, tells us that one day while Salome was crossing a frozen lake she sank into the water up to her neck, when the sharp edges of the broken ice cut through her throat.[31]

Whatever the cause, the death of John caused among the people so uneasy and painful an impression, that the defeat of Antipater in the war against the Arabs was counted as a just retribution for his crime. Jesus had no illusions regarding the causes which led to the murder of the Baptist nor as to the faction which had brought it about. On the contrary, he instinctively felt that this party would also turn against Himself, as continuing the work of the martyr who had come to

prepare the way for Him. The tetrarch and his court wondered who Jesus could be. They who remembered the prophecy of Malachias said: "It is Elias"; those who recalled the words of Moses said: "He is a prophet"; the more advanced said: "He is a forerunner of the Messiah." "But I have had John beheaded," said Antipater. "Who can this man be of whom I hear so much." And he sought to see Him.[32] But he will not see Him until the day of His condemnation, which even to him will appear unjust.

NOTES

[1] S. Mark vi. 3; S. John vi. 42.

[2] S. John i. 46; in fact, the phrase is attributed to Nathanael, who was of Cana, when he came from under the fig-tree to meet Jesus.

[3] S. Mark iii. 21; cf. S. John vii. 3-5.

[4] S. Luke iv. 24; S. Mark vi. 4.

[5] Mountain unnamed from which Jesus delivered the Sermon on the Mount. S. Matthew v. 1 *et seq.*; S. Luke vi. 20.

[6] S. Mark i. 21 *et seq.*; S. Luke iv. 16. Every Hebrew city had a synagogue or meeting-place formed of one rectangular hall or chamber with a portico usually of Greek architectural style. The remains of some are still to be seen at Orbid (Arbela), Meiron, Gisch, and in other towns of Palestine. Cf. Mischna, *Megilla*, iii. 1. Renan says that the synagogues were little republics where honours, etc., were conferred: *Vie*, ch. viii.

[7] S. Luke v. 1.

[8] S. Matthew iv. 17, 18, 23, ix. 35; S. Mark i. 39.

[9] S. Matthew x. 1 *et seq.*; S. Mark iii. 13; S. Luke vi. 12 *et seq.*; S. John vi. 1 *et seq.*

[10] S. Matthew was a revenue officer and not a publican. Those who at Rome were called publicans (Tacitus, *Ann.* iv. 6; Cicero, *De provinc. consul.* 5) were farmers-general of the taxes, and at most were knights. S. Matthew was a revenue officer—one of

those who collect the taxes: a vile and even sacrilegious office in the eyes of the Jews, since the tax was the sign of their vassalage, and paying it constituted an act of Paganism.

[11] The same Evangelist names them in the following order: Simon Peter and Andrew his brother (Eusebius, *H.E.* vol. iii.; James and John, sons of Zebedee—called from their vehemence Sons of Thunder (S. Mark i. 20; S. Luke v. 10, viii. 3; S. John xix. 27); Philip; Nathanael—afterwards called Bartholomew; Thomas or Didimus; Matthew or Levi, son of Alpheus (Gospel of the Ebonim in Epiphanius, *Adv. Hær.* xxx. 13); James, son of Alpheus and cousin of Jesus; Lebbeus or Thaddeus, who formerly belonged to the party of Judah the Colonite (Epiphanius, *Adv. Hær.* xxx. 13); Simon or Zelotes, also called the Canaanite, who also belonged to the party of the Colonites (Epiphanius, *ibid.*); and Judas Iscariot.

[12] S. Luke viii. 1-3.

[13] S. Matthew viii. 20.

[14] St. Matthew ix. 11 *et seq.*; S. Mark ii. 18 *et seq.*; S. Luke v. 33 *et seq.* Rabbi Benamozegh explains the disdain expressed by the Pharisees concerning the popular festivals, at which Jesus used to be present, by the fact that they were extremely particular as to whom they sat next at table, and expected that their own attendance should be regarded as a very high honour (*Storia degli Essini*, Florence, Le Monnier, 1865, p. 240, and p. 244 in note).

[15] S. Luke vii. 31-4.

[16] S. Matthew xxi. 31.

[17] Renan, *Vie*, ch. v.

[17a] *Vie*, ch. xi. Renan, in this passage, giving free rein to his poetic enthusiasm, believes that the charm exercised by the personal beauty of Jesus had much to do with the success of His propaganda, but here also the romance rests upon a purely theoretical basis, and is intended to counteract another tradition of the personal ugliness of Jesus—also resting upon nothing but a theory according to which this ill-favouredness, æsthetically speaking, was to be regarded as a true Messianic sign. See Justin, *Dial. cum Tryph.* 85, 88, 100; cf. Isaiah i., iii. 2. The supposed beauty of face and form is thought to be accredited by the

portrait attributed to Lentulus, the ill-favouredness by the bare word of Tertullian, Alexandrinus, Origen, S. Clement, S. Augustine, and others. It may be well imagined that there has appeared since the invention of printing, not one book only, but a small library treating of this argument. Cf. *e.g.* Pijart, *De singulari Christi Jesu D.N. Salvatoris pulchritudine*, and Lami, *De eruditione Apostolorum*, Florence, 1766, p. 114. For the history of the conventional pictures of Jesus, cf. Lipsius, *Christusbilder*, Berlin, 1897. In the catacombs of Rome, in which symbolism and typical conventionalism dominate, Jesus preferably figures as the *Pastor bonus*, a symbol that came from pre-Christian literature (Psalms xxiii. 1-3; Isaiah xl. 11; Ezekiel xxxiv. 23) into the New Testament (S. Matthew ix. 36; S. John i. 29, 36, x. 14-19; Hebrews xiii. 20). Besides many pictures, there have been discovered in the subsoil of the catacombs five statues representing the same pastoral symbol. Allied to this symbol of the Good Shepherd is that of the *Agnus Dei*, in memory of Jesus who sacrificed Himself *pro ovibus suis*. Another symbol is that of Orpheus, who draws all things unto himself (*omnia traham ad me*) by the power of his teaching and example, a faithful translation of the mythological symbol into an evangelical one. Another symbolic figuration is that of the Dolphin swallowing another fish, this being intended to represent Christ overcoming the Demon, the seducer of the world (Ap. xii. 9). Cf. Labanca, *G. C. nelle catacombe di Roma* in the *Rivista d' Italia*, Dec. 1902. For the immense and interesting argument regarding Jesus in art, cf. *e.g.* Hoppenot, *Le Crucifix dans l'histoire et dans l'art, dans l'âme des saints et dans notre vie*, Paris, Desclée, 1903, 3rd ed.

The fantasy of details concerning the physical personality of Jesus has been carried to the extent of measuring his body. The fact is historical, and its origin is simple enough. It was ordained by the Jewish law that the standards of weights and measures should be preserved in the sanctuary (Leviticus xix. 35, 36), and that every family should have copies of them (Deuteronomy xxv. 13-15). The Emperor Constantine ordained that the cubit standard of the hydrometer by which the height of the Nile water was measured should be transferred from the Pagan temple of Serapium to the Christian Church (Cassiodori, *Opera*

omnia, t. i. pp. 215, 6). Justinian supported the biblical tradition, and ordered the clergy to be charged with the preservation of the weights and measures (*Novell.* cxxviii. cap. xv.), and this system was maintained in Italy until the time of the Republics (Muratori, *Antiquitates Italiæ*, vol. ii. p. 87.) Now the ecclesiastics in their choice of standards were guided by religious ideas, and among these was the idea of the body of Christ. How they could conceive the measure of it, I do not know. Probably they had as models the oldest and most celebrated pictures of Christ, such, for example, as that in the Church of S. Saviour, in one of the Imperial palaces at Constantinople, and at a later epoch the picture of the Santa Sindone in the Royal Chapel at Turin—or perhaps it was desired to create an analogy with the Palestine cubit, and that, preferring a triune number, the stature of Jesus was fixed at three Palestine cubits—equivalent to 1·6644 metres. Several of our Florence codices treat of the stature of Jesus and give the figure of it. The Riccardi codex sec. xiv. (No. 1294, c. 103) gives 1·744 metres; another Riccardi codex sec. xv. (No. 1763 c. 56) 1·60 metres; a Laurentian codex of the first half of the fourteenth century three Florentine *braccia*, or about three times 0·584 metres. And so greatly has the application of these imaginative details as regards the stature of Christ been abused, that various prayers entitled "the stature of Christ" have been composed—some against the plague, and others against other calamities. From the catalogue of books published by the famous Ripoli press of Florence between the years 1477 and 1482 it is found that many prayers were printed under this title. Cf. *Giorn. stor. della let. it.* vol. xx, fasc. 60, an. 1892; Uzielli, *Orazione della misura di G. C.* Florence, 1902; ibid. *Misure lineali mediævali*, etc., Florence, 1899. Judgment in fantastic details has also been passed upon the final scene of the great drama of Jesus, and this has gone so far as to determine the distances to the place of execution. One anonymous traveller ends the relation of his journey in the Holy Land as follows:—

"Let it be noted by those who make the pilgrimage to the Holy Land from beyond sea, that from the Sepulchre of our Lord Jesus Christ to Mount Calvary where He was nailed to the Cross, is fifty paces; and from the Sepulchre to the spot which He said

was the centre of the world is twenty-five paces. From the Sepulchre to the column to which He was bound, and where He was scourged, it is fifty-five paces; and from the Sepulchre to His prison it is fifty paces; and from the column where He was scourged to the place where was found the other cross it is sixty-five paces; and from the Sepulchre to the place where He said the Lord's Prayer it is thirty paces; and from Jerusalem to S. Mary of Bethlehem it is six miles, where Christ was born; and from Jerusalem to the River Jordan it is thirty miles; and from Jerusalem to Mount Olivet it is two thousand paces; and from the River Jordan to the place where Christ made Lent it is four miles; and from the river towards the east is the promised land. God lead us there to salvation. Amen." Cf. *Viaggi di Leonardo Frescobaldi e altri in Terra santa del Secolo*, xv. Florence, Barbèra, 1862, pp. 118, 143, 449, 450. And there are not a few manuals and guides which are placed in the hands of strangers visiting Jerusalem. See the Italian manual, G. C. Ferrario, *Descriz. e guida di Gerusalemme*, Rome, Civelli, 1894, in which is described the column to which was affixed the sentence passed upon Jesus (p. 261), the Gate of Judgment through which Jesus passed to Calvary, the arch *Ecce Homo* where Pilate showed Jesus to the people (p. 262), the Garden of Gethsemane with eight olive-trees—and I know not how much celery—the Grotto of the Agony where Jesus passed His last night (p. 287), the Antonia tower where Jesus was delivered over by Pilate to the Jews (p. 287), and other similar *curiosities* for honeymoon travellers!

[18] S. Matthew xxiii. 14, 16, 23, 33, 35.
[19] S. Matthew vi. 1-4.
[20] S. Matthew vi. 16, 17.
[21] S. Matthew v. 23, 24.
[22] S. Luke xviii. 9-14.
[23] S. Matthew v. 36, 37.
[24] *Vie*, ch. xx.
[25] S. John iii. 1 *et seq.*
[26] *V. s.* cap. iv.
[27] S. Matthew xiv. 11, 12; S. Mark vi. 30; S. Luke ix. 9, 10.
[28] S. Matthew vii. 17 *et seq.*; S. Mark vi. 17, 19, iii. 19.

[29] Josephus, *Antiq.* lib. xiv.; S. Matthew xiv. 6; S. Mark vi. 17-19.

[30] Negri, *Gesù a Cesarea di Filippo* in the *Rivista Europea*, November 1875, p. 402.

[31] Witsii, *Exercitatio de Johanne Baptista*, Misc. Sacra, ii. 367.

[32] S. Luke ix. 7-9; S. Mark vi. 14-16.

CHAPTER VII

First Mission of the Apostles—The Master shows the Disciples the Perils of Public Life—Period of Vague and Circumspect Propaganda—A Deputation of Scribes and Pharisees comes from Jerusalem to question Jesus—A Query regarding Inobservance of Form—The Reply of Jesus against Pedants and Hypocrites—Another Mission of Seventy Disciples—Jesus after a Long Journey braves the Hostility of Jerusalem—The Absolution of the Adulteress—Significance of this Absolution in View of the Mosaic and Roman Law—Opinion regarding Jesus at Jerusalem—Refuge in John the Baptist's Country.

Jesus knew of the indiscreet curiosity of Herod from the disciples of the martyred baptist and His own, and withdrew into desert places followed by the multitude and by His Apostles.

The latter had just then returned from the first mission entrusted to them by the Master, that of journeying through the land and announcing the good tidings in the towns and villages through which they passed.[1] And in giving this mission Jesus took partly into account all the peril which He and His ran. "Behold, I send you forth as sheep in the midst of wolves; be ye therefore wise as serpents and harmless as doves. But beware of men, for they will deliver you up to the councils, and they will scourge you in their synagogues. And ye shall be brought before governors and kings for My sake, for a testimony against them and the Gentiles. But when they deliver you up, take no thought how or what ye shall speak: for it shall be given you in that

same hour what ye shall speak. Fear them not therefore, for there is nothing covered that shall not be revealed, and hid that shall not be known. What I tell you in darkness, that speak ye in light, and what ye hear in the ear, that preach ye upon the housetops. And fear not them which kill the body, but are not able to kill the soul; but rather fear him which is able to destroy both body and soul in hell. Are not two sparrows sold for a farthing? and not one of them shall fall on the ground without your Father knoweth. But the very hairs of your head are all numbered. Fear ye not therefore; ye are of more value than many sparrows." [2]

Such was the feeling that the Master sought to render clear and present to the disciples, regarding the trials and sacrifices to which their mission would expose them, and to enable them either to decline it or clearly measure all its hazardous possibilities—an example, indeed, worthy of imitation, but not imitated, of the just and rigorous idea of responsibility on the part of a leader towards followers on an arduous public mission.

According to S. Matthew, the withdrawal of Jesus into the desert was due to the execution of S. John the Baptist. The same Evangelist, however, relates that Jesus returned several times to the shores of the lake of Gennesaret, which seemed to possess an almost irresistible attraction for Him, although at times compelled to leave them by the workings of His enemies. It would appear to have been under stress of these conflicting influences that He formed later on the extreme and courageous resolution to precipitate events by going Himself to Jerusalem. According, however, to the other two Evangelists, Jesus withdrew into solitude after the grievous news of the martyrdom of John the Baptist with the sole object of obtaining rest for Himself and His disciples on the return of the latter from

their first mission, and had then no prescience of any imminent peril.[3] But the version of S. Matthew, as the most probable one in this slight divergence of motives and not of facts, should be preferred.

The first locality in which Jesus sought refuge was the region of Bethsaida, at the eastern extremity of the lake—a district which, after the death of Philip, another son of Herod to whom it belonged, was annexed to the province of Syria. How long He may have tarried there it is not possible to determine, owing to the variety and inversion of some of the dates in the Gospel narratives, but when one considers how warm a welcome was given to Him on His return to the western shore of the lake, it seems reasonable to conclude that His absence could not have been of short duration. He was received with great rejoicings, and the sick hastened to meet Him as a Saviour long expected when He returned to Gennesaret.[4]

It is certain that His fame had not only reached the ears of Antipater, but that, passing over the confines of Galilee, it had penetrated the jealous souls of the magnates of Jerusalem. In fact, a deputation composed of scribes and Pharisees journeyed from Jerusalem to Galilee to see matters for themselves on the spot, and oppose the progress of a propaganda and an association which began to appear dangerous. Scribes and Pharisees are ready to employ every art to place Jesus in contradiction with the written law and traditional faith of the Hebrew people, and regarded no fatigue as too great to attain that end. The first charge which they make against Him is that of failing in observance of ritual practices. "And it is in this charge," observes one of our few cultivators of Christology, "that all the strength of the Pharisaical spirit shows itself. In the great moral phenomenon that was being revealed to them,

this party only saw and observed the tendency to infringe formal prescriptions; but this, then, was precisely the gravest matter—they were mummified souls absorbed in the worship of form, and for them fault, merit, chastisement, and praise rested upon nothing but appearances.[5] The scribes and Pharisees said to Jesus: "Why do thy disciples transgress the tradition of the elders? for they wash not their hands when they eat bread."

Jesus replied: "Why do ye also transgress the commandment of God because of your tradition? For God commanded, saying, Honour thy father and thy mother; and he that curseth father or mother, let him die the death. But ye say, Whosoever shall say to his father or his mother, That wherewith thou mightest have been profited by me is given to God; he shall not honour his father. Ye hypocrites! well did Isaiah prophesy of you, saying, This people honoureth me with their lips, but their heart is far from me."[6]

The constant and irreconcilable idea of opposition to all that signifies contradiction to the truth on the part of conventional forms, hypocrisy, and superstition could not be more openly revealed by Jesus to His enemies. The latter went their way scandalised, and when the twelve informed the Master of their departure, He continued in the same sense, saying, "Let them alone: they be blind leaders of the blind. Do not ye yet understand that whatsoever entereth in at the mouth goeth in at the belly and is cast out into the draught? But the things which proceed out of the mouth come forth from the heart, and they defile the man. For out of the mouth proceed evil thoughts, murders, adulteries, fornications, thefts, false witness, blasphemies."[7]

Jesus left these places and undertook a long tour of propaganda of which it would be impossible to determine the complete itinerary or duration. It is certain

that He visited Phœnicia in the environs of Tyre, and from there journeyed by way of Sidon to the district of Decapolis, on the eastern shore of the lake, retracing His steps to His paternal Galilee, and finally moving towards Jerusalem, the centre of implacable hostility.[8]

While preparing for this long journey He chose seventy of His followers and despatched them into the country round, as He had already directed the twelve Apostles to precede Him two by two in the towns through which He intended passing. And in these words He instructs them: "The harvest truly is plenteous, but the labourers are few. Pray ye therefore the Lord of the harvest that He send forth labourers into His harvest. Go your ways. Behold, I send you forth as lambs among wolves. Carry neither purse nor scrip nor shoes, and salute no man by the way. And into whatsoever house ye enter, first say, Peace be to this house, and if the Son of peace be there your peace shall rest upon it; if not it shall turn to you again. And in the same house remain eating and drinking such things as they give, for the labourer is worthy of his hire. And treat the sick that are therein, and say unto them, The kingdom of God is come nigh unto you. But into whatsoever city you enter and they receive you not, go your ways out into the streets of the same and say, Even the very dust of your city which cleaveth on us we do wipe off against you; notwithstanding be ye sure of this, that the kingdom of God is come nigh. I say unto you that it shall be more tolerable in that day for Sodom than for that city."[9] It appears, however, that this mission was of brief duration and made no great stir, since only S. Luke mentions it, and no reference is made to it by the other Evangelists, nor in the Acts of the Apostles, nor in the apostolic epistles.[10] There is no doubt that in consequence of the great favour with which the word

of Jesus had been received, many people followed Him from Galilee to Judæa and up to Jerusalem.

Here in the temple,[11] in the Court of Women [12] under Solomon's Porch,[13] He spoke to new and more difficult hearers. It appears that on this occasion He remained in the city from the feast of Tabernacles in mid-October until the feast of Dedication in the following winter.[14]

One day during this stay, while in the temple among the people who crowded round Him from admiration or curiosity, a woman was brought before Him.

"Master," said they unto Him, "this woman was even now taken in adultery. Now Moses in the law commanded us to stone such a one. But what sayest Thou?"

The question was maliciously put with the object of compromising so popular a rabbi, since it placed Him in the dilemma of replying either that the adulteress should not be stoned, thus running counter to the Mosaic law, or that she should be stoned, which would be a breach of Roman law, the latter prohibiting the Jews from pronouncing death sentences. Jesus at first made no reply, perceiving perfectly well the snare set for Him; then stooping down, He wrote with His finger on the ground. When they continued asking Him, He rose up and said, "He that is without sin amongst you, let him first cast a stone at her." And as they continued questioning Him, He again stooped down and wrote on the ground. But His malicious questioners went out one by one, beginning with the eldest, Jesus alone remaining with the woman standing in the midst.

"Woman," said Jesus unto her, "where are they that accused thee? Hath no man condemned thee?"

"No man, Lord."

"And Jesus said, Neither will I condemn thee. Go, and sin no more." [15]

Comprehensive and irrefutable words! He who uttered them recognised the sin of adultery, and in dismissing the woman exhorted her not to repeat it. He did not approve the fault, but commuted the penalty. But the Mosaic law, which in the original conception of the Decalogue and in the greater part of the injunctions given in the Pentateuch, not excluding the more reasonable ordinances of a hygienic character, is a document of remarkable wisdom. It was, however, interpreted in a narrow spirit based upon casuistic quibbles which completely changed its sense, and in view of such a mode of interpretation the indulgence of Jesus became an anti-juridical pronouncement, a real overthrowing of the law. The judgment of Jesus could not be more humane, nor more consonant with the sublime idea of forgiveness, for the weak and yielding victims of strong passion such as had, through love, led this woman to adultery, or for the victims of any determinant invincible force, and it was these whom in the Sermon on the Mount He taught to pray, "Lead us not into temptation."[16] But the judgment, though just, was not legal: it afforded ground enough for the narrow souls who were sticklers for the impeccable observance of the law to add a fresh count to the indictment against Jesus.

At Jerusalem, public opinion concerning Him was divided between those who declared Him to be a good man and those who said, "No, He seduceth the people."[17] When He went into the temple to preach, many wondered, saying, "How doth this man know letters, having never learned?"[18] Some murmured against the impunity which He enjoyed. "Lo, this man speaketh in public and nothing is said to Him." "Can it be that the rulers indeed know that this is the Christ? But we know this man whence He is; but when the Christ cometh no man knoweth whence He is."[19] Others sought to

throw in His face His proclamation of the truth that should make all men free. "We are the seed of Abraham, and we have never yet been slaves to any man. How sayest Thou, Ye shall be made free?" [20]

Jesus replied to them, "If you be the children of Abraham, do the works of Abraham. But now you seek to kill Me, a man that hath told you the truth which I heard from God. This did not Abraham." [21] It seems, indeed, that from that time the enemies of Jesus sought to kill Him, or at least to apprehend Him,[22] and that twice already stones had been picked up to cast at Him.[23] Still, these were popular and not official manifestations. Evidently the holy city, head and altar of the conservative and religious spirit of the nation, was for the greater part hostile to Him. It was perhaps in order to avoid the extreme fury of this enmity, and, moreover, because His hour was not yet come, nor His mission entirely finished,[24] that He quitted the city which killed its prophets, and returned to the country beyond the Jordan in which John the Baptist dwelt during his lifetime. Here He was soon surrounded by fresh followers ready to hail Him as the Lord of whom the Baptist had announced the coming.[25]

NOTES

[1] S. Matthew x. 5 *et seq.*

[2] S. Matthew x. 16-19, 26-31; S. Mark vi. 7 *et seq.*; S. Luke ix. 1 *et seq.*

[3] Cf. Negri, *Gesù a Cesarea di Filippo, l.c.*

[4] S. Matthew xiv. 34-6; cf. Negri, *l.c.*

[5] Negri, *l.c.*

[6] S. Matthew xv. 1 *et seq.*; S. Mark vii. 1 *et seq.*; cf. Isaiah xxix. 13.

[7] S. Matthew xv. 12 *et seq.*

[8] S. Matthew xiv. 34, xv. 21, 29, xvi. 13, 21, xvii. 22, 24, xix. 1; S. Mark vi. 32, 45, 53, 56, vii. 24, 31, ix. 32, x. 1; S. Luke ix. 10 51, 52, 56; S. John vii. 1, 2, 6, 9. Cf. Negri, *Gesù a Cesarea di Filippo, l.c.* For the difficult chronology, cf. Labanca, *G. C. nella lett. contemp.* Turin, Bocca, 1903, cap. ix. p. 372, V. 1, cap. ii. n. 13.

[9] S. Luke x. 1-12. The encouragement here given to the disregard of every scruple concerning food is noteworthy. The recommendation to avoid greetings must be interpreted with regard to the custom of salutation then prevailing among Orientals, with whom the act of greeting was not restricted to a gesture or a word, but consisted of various questions and replies, and other ceremonies which required much time. Hence the recommendation of Jesus resolves itself into a counsel in favour of brevity and despatch. In fact, in the second Book of Kings we read that Elisha speaks in this sense to his servant Gehazi, enjoining him to gird his loins and take his staff without saluting any man or conversing with any one by the way, and if any should greet him he is not to make reply (2 Kings iv. 29).

[10] Strauss, just because this detail is destitute of any great importance, believes it; rather an important confession from a profound critic, though with a preconceived idea (*Vie*, tom. i. ch. v. par. 75). The choice of the seventy might, however, have some special signification. As the choice of twelve Apostles indicated, owing to their representing the twelve tribes of Israel, the mission of Jesus to the Jewish people, so the seventy (or according to some authorities the seventy-two) were the representatives of the seventy or seventy-two peoples who, with as many different languages, were to be found at that time on the surface of the earth, according to the belief of the Jews and the first Christians (Clem. *Hom.* 18, 4; Epiphanius, *Hæres.* i. 5).

[11] S. John vii. 14-28.

[12] S. John viii. 20. The Evangelist uses the word Gazophylacium, which is half Persian (*gaza*, *i.e.* riches) and half Greek (φυλακή, *i.e.* custody), which in its general acceptance indicated the place where the chests or boxes destined to receive the oblations were kept. And the same word is used by S. Mark, who mentions the poor widow as depositing her mite in one of these

boxes, thus deserving, according to the memorable words of Jesus, more than those who had given larger offerings. But the Gazophylacium was placed in the Court of Women, so called, not because only women were admitted, but because they could not penetrate farther into the temple than this court. Other writers locate the Gazophylacium elsewhere (Lightfoot, *In Horis hœbr. et talm.*). A copious if not clear description of the temple of Jerusalem is to be found in Josephus (*De bello judaico*, lib. v. cap. v. and xiii.).

[13] S. John x. 23.

[14] S. John vii. 2-10, x. 22 *et seq.* The feast of Tabernacles was instituted to commemorate the time during which the people of Israel lived in tents in desert places under the protection of the Lord (Leviticus v. 23). The feast of Dedication was celebrated to consecrate a temple or an altar. The Maccabees, *e.g.*, after having purified the contaminated temple of Antiochus Epiphanus, celebrated its dedication to the service of God (Exodus xi.; Kings viii.; Maccab. iv.).

[15] S. John viii. 1-11. The penal enactment of the Mosaic law against adultery to which the accusers of the woman refer is the seventh commandment of the Decalogue, which can be reconstructed from the Pentateuch (cf. Deuteronomy v. 21 and Exodus xx. 17), from two passages in Leviticus (xviii. 20 and xx. 10), and from two passages of Deuteronomy (xxii. 22, 24). Only in the last-named passage (Deuteronomy xxii. 24) is the penalty of lapidation clearly indicated, whereas elsewhere the prohibition against adultery is mixed up with various other ordinances, some being expressed in the form of recommendations only, such as that forbidding women to be touched *quæ patitur menstrua* (Leviticus xviii. 19). The passage here cited concerning lapidation either escapes the notice of Strauss—who from the non-existence of a specific penalty for adultery argues in favour of the non-existence of the incident of the woman taken in adultery mentioned in the Gospel (*Vie*, tom. i. ch. viii. par. 90) —or the passage does not appear to him sufficient to indicate lapidation. This is not my opinion, since if, according to the passage in question, lapidation is threatened for fornication on the part of a woman when still only bound by betrothal, it must

certainly be understood as threatened for fornication on the part of a married woman. Moreover, the reprobation of adultery appears in par. 22 of the same chapter (xxii), and in par. 24 lapidation is threatened. Nevertheless, the Talmudic canon will not bear application here which says, "Omne mortis supplicium in scriptura absolute positum esse strangulationem" (Mishna, tr. *Sanhedr.* c. 10; Maimonides, *Sanhedr.* f. 1), because the rule in the Mosaic penal law whereby strangulation is understood to be intended when no other form of capital execution is specified, is not applicable when such specification is not made, and it is not wanting in the present case. According to the Talmud the adulterer was punished, not by lapidation, but strangulation (*Sanhedr.* 84 C.). That among the accusers of the woman the old men were the first to steal away ashamed and confounded, is related by the Evangelist himself (S. John viii. 11).

About the year 1894 there appeared successfully on the Italian stage a piece in one act by Deputy Giovanni Bovio entitled *Cristo alla festa di Purim*, which treated this argument on the question of adultery. The zealots cried sacrilege and implored God's forgiveness for those guilty of it (*Unità Cattolica*, June 8–9, 1894; *G. C. sul teatro, Protesta e riparazione*, Florence, Ciardi, 1894. Some critics praised the work to the skies and described it as "the best drama of our century, since it represents the synthesis of strength and the power of faith in the ideals of love and justice" (Enrico Piccione, *Le rappresentazione sacre e il Cristo del Bovio*, Rome, Perino, 1894, p. 5). An equally great partisan exaggeration! In reading and in seeing this piece it did not appear to me to be either a miracle or a blasphemy. After committing the unjustifiable error by which Jesus is made to appear at the feast of Purim, this short piece consists of a dialogue between Judas Iscariot and Mary Magdalene and the appearance of the adulteress on the scene. The dialogue offends every sound dramatic rule, since it is neither indicated nor justified by any motive of action, and is moreover overloaded with references to the words of other persons or to the words of Jesus, who, however, by a felicitous and delicate sense of fitness on the author's part, does not appear on the scene. Judas represents a patriot in the garb of a traitor, which does not seem to be the happiest mode of

indicating and representing love and patriotic zeal, particularly since this Judas is not the one defended by Renan nor the one invented by Petruccelli, but simply the Judas of tradition who betrays and sells his Master. In any case he is a political reactionary who desires that Judæa should shake off the Roman yoke, while Jesus is a social revolutionist advocating fraternity and equality among men. What is revolt in one case is revolution in the other. This contrast may have suggested itself to Signor Bovio by his acquaintance with two of his parliamentary colleagues, one a republican patriot and the other a revolutionary socialist, although the comparison applied to two biblical personages has a somewhat odious effect. The appearance of the adulteress is managed with fine scenic effect, but the impression soon fades away before the unfulfilled exigencies of historical truth and dramatic fitness. The scribes ask Jesus what He thinks of this woman, and after being the butt of some more or less ribald jeers from members of the crowd, Jesus utters the solemn words recorded in the Gospel, "He among you who is without sin," etc. Who can fail to see that these noble and comprehensive words, preceded by such popular licence, lose their spontaneity and significance? Jesus did not defend the adulteress, because even her accusers were adulterers. Such a defence would have been too easy and common on the basis of an argument *ad hominem*, but He wished to admonish His hearers that no one could make himself an accuser and judge of the faults of others when, in his own conscience and in the average state of social feeling and custom, he found the constant although unavowable committal of those faults, so that between right feeling and practice on the one hand, and accusing and judging on the other, contradiction and hypocrisy arise, and, finally, injustice and iniquity. It matters not that the practical habit of the fault falls under the same category of culpable actions; in this manner the species is prejudicial to the genus, the concrete to the abstract, whereas Jesus spoke in general terms in full coherence with His great thought enunciated on another occasion, "Judge not, that ye be not judged" (S. Matthew vii. 1)—a thought confirmed by Him in practice when refusing to settle the question of a disputed inheritance (S. Luke xii. 13), and confirmed anew by the

words which he addressed to the Pharisees: "Ye judge after the flesh: I judge no man" (S. John viii. 15). So much is this true, that when left alone with the adulteress, He that had never committed adultery dismissed her saying: "Neither will I condemn thee." And then in the Gospel text one does not read all those small details which tend to diminish a great truth, and which after all deprive it of its natural *vis comica*: "*cum ergo perseverarent interrogantes eum*" is a phrase that indicates insistence and repetition of the same demand, and not specification and discussion.

More valuable though less genial among the recent theatrical representations on the fruitful theme of Jesus are *La Samaritaine* of Edmond Rostand and *La Tentazione di Gesù* of Arturo Graf. The work of the illustrious author of *Cyrano de Bergerac* is developed in three acts round the well of Sichem, and in it figure the three patriarchs who effectively represent the traditions of the people of Israel. It is a work treated with a certain mastery of touch, but not with happy effect. Graf's piece consists simply of a dialogue between Jesus and Satan maintained throughout at the height befitting the theme. Various forms of temptation, love, money, power, are successively represented by appropriate scenic effects, and then by antithesis to these alluring baits appears a vision of the cross dimly seen by the first pale light of an Eastern dawn on the hill of Golgotha. The whole effect of the piece is much aided by the appropriate, thoughtful, and beautiful music composed for it by the Maestro Carlo Cordara. But how far could I not be led by the fascinating theme of Jesus in art? To begin at the end—that is to say, by its musical expression—the subject-matter is rich and important enough from the study of the conceptions of Bach, Beethoven, Pergolese, Rossini, and Perosi, but becomes immense when we go back to sculpture, painting, and architecture. But an adequate study of Jesus in art has not yet been written.

[16] S. Matthew vi. 13.
[17] S. John vii. 12, 43.
[18] S. John vii. 14, 15.
[19] S. John vii. 26, 27.
[20] S. John viii. 32, 33.
[21] S. John viii. 39, 40.

[22] S. John vii. 25, 30, 32, 44. x. 39

[23] S. John viii. 59. x. 31. This Evangelist places here the first projects of reprisals against Jesus instituted by the Jews, while the Synoptics refer them to a somewhat later date. It must, however, be admitted that there were various currents of public opinion at the time.

[24] S. John vii. 6, 8.

[25] S. Matthew xix. 1; S. Mark x. 1. S. John x. 40.

CHAPTER VIII

A Message from Bethany—The House of Lazarus, Martha, and Mary—The Fame of the Resurrection of Lazarus—The Elders and Priests of Jerusalem convene the Sanhedrin—The Statutory Necessity that some one should die for the People—It is decided that Jesus shall die—Juridical Consequences of this Anticipatory Decision—The Fame of other Miracles as tending to render Jesus amenable to the Provisions of the Penal Law—The Capital Charge of working Miracles on the Sabbath—Other Warnings of Danger—The Supper at Bethany—Judas Iscariot and his Treachery as treated by Tradition—Jesus at the Epilogue of His Mission—His Joyous Entry into Jerusalem—Political and Juridical Value of the Fact—Last Conflicts in the Temple—The Last Supper.

It was while in the midst of this tranquil but fruitful work that a message destined to draw Him from it reached Jesus at Bethany.[1] This was a village situated on the slope of the Mount of Olives which overlooks the Jordan and the Dead Sea, an hour and a half's journey from Jerusalem. Here Jesus knew a family of three persons, two sisters and a brother, whose friendship was very dear to Him. Martha, one of the sisters, was active and housewifely; the other, named Mary, was of a more languid and contemplative character, and often sat at the feet of the Master. Thus occupied, she sometimes forgot her domestic duties, and Martha reproached her gently on that account.

Their brother Lazarus was also much loved of Jesus. There was another member of the family, the master of the house—a leper named Simon.[2]

The message came from this family and said that Lazarus was ill. Jesus hastened to Bethany, and thence the rumour gradually spread that on arriving Jesus had found His friend already dead and had raised him to life.[3] This report caused great stir, and while increasing the supporters of Jesus, embittered His enemies. Some hastened to relate what had occurred to the Pharisees, and the latter resolved to lose no more time. On this occasion they held council with the priests. "What is happening?" they asked themselves. "This man is working great marvels, and if we allow Him to go on, we shall have the Romans taking from us our country and our nationality."[4] They were not sincere in thus arguing, as it will be seen how widely the Roman procurator differed from themselves regarding Jesus, but they disguised private passion under the pretext of public welfare. Meanwhile, one of the assembled councillors, the high priest Caiaphas, observed: "'Ye know nothing at all, nor consider that it is expedient for us, that one man should die for the people, and that the whole nation perish not.' And this spake he not of himself: but being high priest that year, he prophesied that Jesus should die for the nation. Then from that day forth they took counsel together for to put Him to death."[5]

Here an observation should be made which will serve to reveal the real origin of the judgment upon Jesus, which very shortly men will be saying could be pronounced by the elders and priests of Jerusalem. But these men had already decided the fate of Jesus. It was these same elders, these same priests, who had already bound conscience and intelligence to a preconceived opinion, who were to be the unbiassed and serene judges of the trial which the Accused of Nazareth was to undergo before the Sanhedrin. Whatever may

be the procedure of this tribunal, the judges who shall state that they pronounced a righteous sentence will be guilty of falsehood, not only for having judged most unjustly the charges brought against the accused, but because they acted upon a resolution already arrived at between themselves—namely, that Jesus must die.

At this time, and in fact even before the resurrection of Lazarus, though much more afterwards, the news spread abroad of other miracles worked by Jesus, who was reported to have cured those possessed by evil spirits,[6] lepers,[7] paralytics,[8] the lame,[9] the crippled,[10] the blind,[11] the deaf,[12] and the dropsical;[13] also that with a small quantity of food he had fed a multitude of persons,[14] that He had turned water into wine,[15] that He had become transfigured on the Mount,[16] had walked on water,[17] and raised the dead to life.[18]

The question of miracles, their authenticity, their explanation, though it cannot be an indifferent one to theological or rationalistic criticism,[19] is altogether so as regards the matter of these pages, in which every act of the life of Jesus is noted or omitted according as it may or may not come within the fixed domain of contemporary penal justice. Now the miracles attributed to Jesus aroused the jealousy of His enemies by convincing them of His increasing favour with the people owing to the theurgic attraction which He exercised, and in fact the anxious conferences between the elders and the priests, assembled for the first time in council, had no other significance, but the miracles themselves could not and never did of themselves afford ground for legal indictment.

The significance now attached to miracles by virtue of the better knowledge supposed to be possessed regarding natural laws and their limits was then unknown. In nearly all antiquity a miracle was only an extraordinary

event, recognised as being even outside the domain of religion, to which it is now restricted. Not only the ministers of the divinity, but also the magi and the exorcists, supported by the general confidence, wielded to a certain extent this prodigious force. In Samaria a magus named Simon by his conjurations created for himself a position in which he received almost divine honours. Except by the great scientific schools of Greece, miracles were admitted. The illustrious school of Alexandria accepted them, Plotinus and other Alexandrine philosophers had the reputation of being able to work them, and even at Rome there were some men believing themselves in possession of the favour of heaven (*favor cœli*) and the special grace of the Divinity (*inclinatio numinum*) who enjoyed the same repute. Tacitus and Suetonius assure us that Vespasian was accosted in Alexandria by a blind man who, asserting that he was acting under the counsel of the god Serapis, entreated the Emperor to cure him by moistening his eyes with saliva, which Vespasian is reported to have done with success.[20] The Old and the New Testament abound in miraculous stories. Through the agency of Moses the famished people were succoured by supernatural means. The prophets Eli and Elisha closed the eyes of some, opened those of others, and raised the dead to life.[21] The ideas concerning the influence of malignant spirits over men, causing melancholy, delirium, and epilepsy, grew among the Greeks and Hebrews through the progressive diffusion of Oriental, and particularly Persian, pneumatology, and of such influence traces are to be found in Josephus, Lucian, and Philostratus.[22] An evil spirit rendered Saul morose and restless.[23] Vainly did Hippocrates, four and a half centuries before Jesus, in his treatise *Del male sacro* state the principles of medicine in such cases. The error long persisted, and the art of the exorcist, I do not say of the

thaumaturgist, was as regular a profession as that of the doctor.[24] Hence thaumaturgy was not, even in the country of Jesus, a new phenomenon, contrary to custom and common opinion, so that it might excite the wonder and the reprobation of the many, though not the susceptibility of penal justice.

It is true that those miracles, claimed as being of direct divine origin, might constitute some of the signs and attributes of the Messiah who was expected as a second Moses and the greatest of the prophets, and among the prophecies speaking of him who was to come, that of Isaiah, "Then the eyes of the blind shall be opened, and the ears of the deaf shall be unstopped; then shall the lame man leap as an hart and the tongue of the dumb sing."[25] Of Jesus Himself a sign (σημεῖον) was more than once asked—a sign which would have been in contradiction with His real nature.[26] But these signs, though proper to the Messiah, were not exclusively His, so true is it that Jesus did not regard them as essential to His Messianic revelation. To those who besought miracles of Him He twice happily replied: "When it is evening, ye say it will be fair weather, for the sky is red. And in the morning, it will be foul weather to-day, for the sky is red and lowering. Ye can discern the face of the sky, but can ye not discern the signs of the times? A wicked and adulterous generation seeketh after a sign, and there shall no sign be given unto it but the sign of the prophet Jonas.[27] For as Jonas was three days and three nights in the whale's belly, so shall the Son of Man be three days and three nights in the heart of the earth."[28] And to confirm that He did not make of miracles a virtue exclusive to Himself, it is sufficient to recall the duty which He assigned to His apostles when sending them on their first mission: "Heal the sick, cleanse the lepers, raise the dead, cast out devils."[29]

One would like to know on what grounds the enemies of Jesus believed they could find Him guilty of a breach of the Mosaic law? Not in working miracles nor in doing so on the Sabbath. When the old and poor paralytic man found no one to put him into the holy pool at the time the water was troubled, and that whenever he drew near somebody went down the steps before him, Jesus told him to take up his bed and walk—it was the Sabbath day.[30] When the beggar, blind from birth, was surrounded by rabbis and scribes who found nothing better to do than to dispute whether his affliction was his own fault or that of his parents, according to the vulgar belief that every ill was sent by God in punishment for the sins of the forefathers unto the fourth generation, Jesus bathed the eyes of the beggar with mud from the pool—this also was on the Sabbath.[31] But the bigoted sticklers for the law would have demanded that the man who had sight restored to him should re-close his eyes and the old paralytic set down his bed again, because they esteemed it was not lawful even to carry one's bed on the Sabbath day.

Unsatisfied and exasperated in their ill-repressed rage against Jesus, they still found some comfort in the hope of having discovered a capital charge against him. This man is not of God, because He keepeth not the Sabbath day. How can a man that is a sinner do such miracles? [32] Jesus replied with His never-failing refutation of adversaries: "Ye on the Sabbath day circumcise a man. If a man on the Sabbath receive circumcision, that the law of Moses should not be broken, are ye angry at Me because I have made a man every whit whole on the Sabbath day? Judge not according to the appearance, but judge righteous judgment." [33] "The Sabbath was made for man, and not man for the Sabbath." [34]

Certainly the Mosaic law forbade work on the Sab-

bath day, a day of rest consecrated to Jehovah, and punished non-observance of this precept with the capital punishment of lapidation. But the text of the laws containing the prohibition and the penalty of labour on the Sabbath nowhere lends itself to so rigorous an interpretation as to include among the various manners of work thus penalised that of touching the eyes of a blind man, or speaking to a paralytic.[35] Such an interpretation would require the application of the law, in the first place, before all others, to those loquacious and pedantic scribes who in full Sabbath not only performed such surgical work as circumcision, much more material in character than the therapeutic work of a miracle, but fatigued themselves by noisy discussions in public places.

If the law were so rigorously interpreted, it would have to be applied to the most ordinary affairs of daily life, which were, on the contrary, generally transacted without reproach. There were disputations between the schools of Hillel and Schammai whether it was even lawful to comfort the sick on the Sabbath day, and the most pedantic sticklers for trifles among the Pharisees enjoined absolute inertia and immobility on that day.[36] The more spontaneous activity of the life of the devout descendants of Moses will not be arrested even for an hour. Jesus in His replies dwelt upon the scruples of the hypocrites, and asked what it was most fitting to do on the Sabbath day—good or evil? to preserve or destroy an existence? He dealt with the argument in a masterly way, bringing forward the usual striking example, "What man shall there be among you that shall have one sheep, and if it fall into a pit on the Sabbath day, will he not lay hold on it and lift it out? How much then is a man of more value than a sheep, wherefore it is lawful to do good on the Sabbath day."[37] And

again: "Ye hypocrites! doth not each one of you on the Sabbath loose his ox or his ass from the stall and lead him away to watering?" [38] His adversaries know not what to reply, blush for themselves, and leave the Master in the midst of the people who are not scandalised but convinced.[39]

The enemies of Jesus, much as they might be inflamed with wrath and consumed by envy, could not use as elements in their indictments against Him any arguments based on the fact of His working miracles, and in confirmation of this it may be observed that nothing was said of any charge regarding miracles in the proceedings either before the Sanhedrin or in the Pretorium.

After the first meeting of the Sanhedrin, Jesus, accompanied by His disciples, left Jerusalem, whither He was shortly to return when His hour was come. He went to Ephraim, a little town near the desert separating the territory of the tribe of Judah from the Jordan.[40] As Easter was drawing near, Jesus could join the caravan of pilgrims journeying from Galilee to Jerusalem by way of Samaria, or by the caravan leaving Perea for Jerusalem by way of Jericho. Jesus chose the latter route, and when the caravan reached the first slopes of Sion and prepared to enter the holy city, He withdrew to Bethany to visit the hospitable home of Martha and Mary.[41] Here a supper was given in His honour at which Lazarus and the twelve Apostles were present, Martha ministering to the wants of the company. And while Jesus reclined at table, Mary appeared, and approaching Him, anointed His feet with liquid ointment of spikenard, afterwards wiping them with her long, luxuriant, thick hair, so that the chamber was filled with the grateful perfume. One of the twelve disapproved of what he regarded as this waste of precious ointment, "which might have been sold for three hundred pence

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and have been given to the poor." [42] He who reasoned thus was Judas Iscariot, the treasurer of the apostolic family. He was a thief, and on this account the lavish use of the ointment might have displeased him. He might have preferred to have charge of its value. But his harsh and unseemly act of opposition to the Master was really due to another reason. This act was the revelation of the betrayal which he contemplated.

The love of opposition and the question of the betrayal of Jesus have led many minds to make of Judas an altogether different figure from that under which he is clearly presented in the Gospels. Hence this man, whom the whole Christian tradition represents as a thief and a betrayer, appears as a devoted patriot, as if patriots at all times and in every nation were habitually to be found among renegades and thieves. This spirit of contradiction has been carried so far as even to ignore the miserable end of Judas, sought by himself, with a rope round his neck, and to maintain that after the sacrifice of the betrayed Master, Judas led a retired but pleasant life on the field of Aceldama—bought with the price of his treachery—while his former friends conquered the world, spreading everywhere the story of his treason.[43]

Gospel tradition is, however, unanimous in attesting that Judas was the unfaithful disciple who after the supper at Bethany went to the chief priests and made the base offer to sell the Master. "What will ye give me, and I will deliver Him unto you?" They covenanted with him for thirty pieces of silver, the price of a slave, and from that time Judas sought opportunity to betray the Master.[44] Six days of life now remained to Jesus.

He is again in Jerusalem at the epilogue of His mission. Crossing the Mount of Olives, on the hollow flank of which lay Bethany, He entered the city riding on an

ass. The multitude which had already commenced to gather around Him at Jericho preceded Him to the gates of Jerusalem, spreading mantles and tunics on His passage, strewing the way with branches of trees, and crying, "Blessed is He that cometh in the Name of the Lord! Hosanna in the Highest!" A multitude which swelled as it progressed, like the waters of a river as it nears its junction with the sea, followed with the same jubilant cries. Jesus, knowing how disturbed His official enemies would be on account of His glorious entry into Jerusalem, reassured them in words of ironical humour: "Fear not, daughters of Zion. Behold, thy King cometh sitting on an ass's colt." All the people were moved, and some asked: "Who is this?" and the multitude said: "This is Jesus, the Prophet of Nazareth of Galilee." [45] There are some who see in this event evidence of a political conspiracy by which the Master of Nazareth, aided by the people, was to seize upon power. But what power? And in connection with what political programme? Reimarus, quoted by Strauss, endeavours to prove that Jesus had such designs, but Strauss himself does not give assent to this false supposition. Arguing on professionally critical lines, Strauss holds that Jesus, who assumed the Messianic mission in His life and always opposed the prevalent idea of a terrible and warlike Messiah, referred to the prophetic text of Zechariah as justifying His appearance before the people as the clement Prince of Peace.[46] But the evident reason that does away with any suspicion of conspiracy is to be found in the clear and inviolable finality of the doctrine and conduct of Jesus, both directed to the conquest of a kingdom that was not of this world. This will be his sole defence in the Pretorium, and meanwhile His ironical exclamation, alluding to the humble character of His equipage when entering Jerusalem,

is the most sincere and just manifestation of His innocence.

It is also true, however, that this triumphal entry caused great stir throughout the city, which was very full owing to the nearness of Easter-time, and that irritation was at length felt by the aristocracy of the temple, who were constantly being worked upon by the Pharisees. A great multitude from the city had met Jesus,[47] and there had been no adverse manifestation. It was only the Pharisees who were consumed by envy and ill-will; they said among themselves: "Perceive ye how ye prevail nothing? Behold, the world is gone after Him."[48] And some of the Pharisees from among the multitude said unto Him: "Master, rebuke thy disciples," and He answered and said unto them, "I tell you that if these shall hold their peace, the stones will cry out."[49] On nearing the city and looking upon it, He wept at the thought of its conservative and fatal opposition to His mission. "If thou hadst known," He said, "even thou, at least in this thy day, the things which belong unto thy peace! but now they are hid from thine eyes. For the days shall come upon thee, that thine enemies shall cast a trench about thee, and compass thee round, and keep thee in on every side, and shall lay thee even with the ground, and thy children within thee; and shall they not leave in thee one stone upon another; because thou knewest not the time of thy visitation."[50] Meanwhile the people escorting Jesus dispersed at the gate of Shushan.

The Master went to pass the night at Bethany with His disciples. A day or two later He returned to Jerusalem, and there argued hotly with the rabbis and scribes, these disputes being the last of His open and irreconcilable conflicts with the temple.[51] In the evening He again went up to Bethany, or rather to the western

valley of the Mount of Olives, where he had many beloved followers.[52] This was the only district in the environs of Jerusalem which presented a bright and verdant aspect, and the palms, fig-trees, and olive-trees which were numerous and fruitful gave name to the villages or districts of Bethany, Bethphage, and Gethsemane.[53]

On Thursday evening He sat at the Last Supper with His disciples, and here in various ways unconnected with the scope of these pages He affixed the seal of the new human spiritual alliance. Towards the end of supper He revealed to His disciples the bitter vision that was passing through His soul. "Verily," He exclaimed, "one of you shall betray me." The disciples were sitting near Him, and S. John rested his head on the bosom of Jesus. The traitor was also present. The latter dared to ask, like the others, "Master, is it I?" More sensitive than his companions, S. Peter felt bitter pain under the suspicion that appeared to weigh upon all, and made a sign to S. John, who could speak to the Master without being heard by all, to question Jesus concerning the grave allusion.

Then S. John, raising himself from the bosom of Jesus, asked: "Lord, who is it?" Jesus answered, "He it is to whom I shall give a sop when I have dipped it. And when He had dipped the sop He gave it to Judas Iscariot, the son of Simon. Then said Jesus unto him, "That thou doest do quickly." None of those present understood these words, except perhaps S. Peter and S. John. Hence most of the disciples believed that the Master had given to Judas some directions concerning the feast of the morrow. Meanwhile Judas, having received the sop, departed.

And it was night.[54]

Notes

[1] S. John xi. 3. This same Evangelist says that Bethany was fifteen *stadii* journey from Jerusalem (xi. 18). It is now called Lararidh, from Lazarus, and naturally the stranger is shown the tomb of the friend of Jesus, which is in a sort of high grotto, access to which is gained by a flight of many steps from the ground (Ferrario, *Descriz. e guida di Gerus.* p. 270).

[2] S. Luke x. 39-42; S. John xi. 3, 5, 36; S. Matthew xxvi. 6; S. Mark xiv. 3.

[3] S. John xi. 11 *et seq.*

[4] S. John xi. 46-8.

[5] S. John xi. 49-53.

[6] S. Matthew viii. 28-34, xii. 22-30, xv. 21 *et seq.*; S. Luke iv. 33-7, viii. 26-39, ix. 37-48; S. Mark i. 21-7, iii. 16-31, ix. 22-7.

[7] S. Matthew viii. 2-4; S. Mark i. 40-45; S. Luke v. 12-16.

[8] S. Mark ii. 1-12; S. Luke v. 17-26.

[9] S. John v. 2-9. In the Piscina Probatica, *alias* Lakelet of Beasts, in Jerusalem.

[10] S. Matthew xii. 10-15, xv. 30; S. Mark iii. 1-6.

[11] S. Matthew ix. 27-31, xx. 29-34; S. Mark viii. 22-6; S. John ix. 1-7.

[12] S. Mark vii. 31-7.

[13] S. Luke xiv. 1-6.

[14] S. Matthew xiv. 13-21; S. Mark vi. 34 *et seq.*, viii. 1-9; S. Luke ix. 12 *et seq.*; S. John vi. 2-13.

[15] S. John ii. 1-11, iv. 46.

[16] S. Matthew xvii. 1, 8; S. Mark ix. 1-8; S. Luke ix. 28-36.

[17] S. Matthew xiv. 23-33.

[18] S. Matthew ix. 23-6; S. Mark v. 35-43; S. Luke vii. 11-17, viii. 49-56; S. John xi. 17-44.

[19] Such indifference is affirmed by Harnack (*L' ess. del Crist.* conf. ii.), but is confuted by orthodox criticism, and with ample reason (cf. *Civiltà Cattolica*, an. liv. vol. ix. p. 540; *v. s.* cap. v. note 11).

[20] Philostratus, *Lives of the Sophists: Life of Plotinus*, by Porphyry, etc.; Tacitus, *Hist.* 4, 8; Suetonius, *Vespasianus*, 7. Cf.

Strauss, *Vie*, tom. i. Introd. par. 14; ch. ix. pars. 91 and 100; Renan, *Vie*, ch. xvi.; Harnack, *L' ess. del Crist.* conf. ii.

[21] Exodus xvi. 11 *et seq.*; 1 Kings xvii. 17, 22; 2 Kings iv. 17-35.

[22] Josephus, *Antiq.* vi. xi. 12; *De bello jud.* vii. vi. 3; Lucian, *Philopseud.* 16; Philostratus, *Life of Apollonius*, 4, 20, 25. Aristotle had already spoken of persons possessed by the devil (*De Mirab.* 160). Cf. Creuzer, *Symbolik*, 3, p. 60 *et seq.*; Baur, *Apollonius von Tyana und Christus*, p. 144. The *lunatici* (σεληνιαζόμενοι) mentioned by S. Matthew are only a species of possessed persons whose more violent accesses coincided perhaps with certain lunar phases (S. Matthew xvii. 14 *et seq.*).

[23] 1 Kings xvi. 14; Josephus, *Antiq.* vi. xiv. 1.

[24] Justin, *Dial. cum Tryphone*, 85; Lucian, *Epigr.* xxiii.; Renan, *Vie*, ch. xvi.; Strauss, *Vie*, Introd. par. 14; tom. ii. ch. ix. par. 92 *et seq.*; Harnack, *L' ess. del Crist.* conf. ii. Modern science has made a great step towards solving the problem of the marvellous, having now reached the point of examining with more confidence and less hostility the allegations of facts attested as miracles, recognizing them as historical data and drawing from them their proper value on that account, and even the greatest possible profit. Faith, which believes illimitably in the miraculous, finds itself towards science in the position of one who has jumped by a single leap to the point which he holds, and leaves others to come up with him by fatiguing journeys and laborious efforts. For example, when Strauss in his *Life of Jesus*, Tübingen edition, 1836, spoke of miracles, he said that science could explain how "a physical affection in which no lesion existed in the bodily organs except in the nervous system, entirely connected with the soul, could be cured by purely spiritual means and by the sole action of the spoken words the looks of Jesus and the impression which He created." "But when the malady was one that had penetrated the bodily organism, a cure in such a case became inconceivable" (tom. ii. ch. ii. par. 100). But less than half a century later this view ceased to be held by science. In our day it no longer confines its explanation to the cases "in which there has been no lesion in the bodily organs except the nervous system," but on the contrary admits and explains the cures—spiritual, so to speak, of such profound lesions and affections as true ulcers and tumours afflicting pa-

tients of both sexes of hysterical temperament, and generally in those pathological conditions which prove the great influence which the mind has over the body. "It is known," says M. Charcot, "that any violent emotion may nail us to the ground without the power of moving a muscle, but on the re-establishment of the motor impulsion emanating from the brain, we are able to walk as before." Now the motor impulsion can be powerfully re-established by a psychic force, by suggestion. "A patient," Charcot says further, "hears that in some sanctuary miraculous cures are obtained, and since in his infirm condition he does not immediately decide to undertake an unknown journey, he begins to question his acquaintances in order to obtain information from them. He then hears nothing but comforting words. The doctor himself admits this, and says, 'We can do nothing against natural laws,' and does not seek to disillusion his patient. Now the suggestion begins gradually to develop itself, incubation prepares it, the pilgrimage augments it—a final effort, a last prayer, an ablution in the holy well—when at length that kind of attractive force created by devotional exercises and the predominance attained by the psychical over the physical state completes its work, and the miracle is an accomplished fact." The scientific man, submitting to the mortification caused by his own impotence, can only say to the patient what Jesus said to the woman whom He healed, "Go, thy faith hath saved thee." And hence faith-healing has its efficacy in the power of mind over body. On this subject Dr. Hack Tuke discoursed largely thirty years ago in his *Illustration of the Influence of the Mind over the Body in Health and Disease, Designed to Elucidate the Action of the Imagination*, London, Churchill, 1872.

Charcot observes: "Muscular atrophy most often accompanies paralysis or hysterical contraction, and that ulceration of the skin and cutaneous gangrene induced by edema, which in its turn may be induced by atrophy, are frequent enough in neurosis. Nevertheless faith-healing is specially indicated in those cases of paralysis which Russel Reynolds claims to be "dependent on idea" (*Remarks on Paralysis*, etc., in *British Medical Journal*, November 1869). Hence the conclusion has been reached that "the therapeutic miracle has its determinism and that the laws which govern its genesis and evolution are beginning, in more

than one point, to be adequately known " (Charcot, *La foi qui guérit*, 1897). At present a vast amount of scientific research is devoted to the subject of the occult faculties in their varied and complex phenomena, such as those of hyperæsthesis (cf. De Rochas, *Les états profonds de l'hypnose*, Paris, Chamuel, 1896), the transposition of the senses (cf. Lombroso, *Sull' azione del magnete e sulla trasposizione dei sensi nell' isterismo* in *Arch. de psich.* 1882; Ellero, *Caso di ipnosi con fenomeni di trasposizione dei sensi* in *Gazz. Med. Prov. Veneta*, 1893—cited by Ottolenghi, *infra*), on the exteriorisation of sensibility (cf. Joire, *De l'extériorisation de la sensibilité* in *Revue de l'hypnot.* January 1898), on the exteriorisation of motility (cf. Rochas, *L'extériorisation de la metricité*, Paris, 1896; Boirac, *Expériences sur l'extériorisation de la sensibilite* in *Ann. de sc. psych.* n. 3, 1895), on the subliminal conscience (cf. Myers on the same subject in *Ann. de sc. psych.* n. 4), on psychic force in the spiritist hypothesis (cf. Tamburini, *Spiritismo e telepatia* in *Riv. di fren.* 1892, p. 434; Lombroso, *I fatti spiritici e la loro spiegazione psichiatrica* in *Vita Moderna*, 1892). And have not the new physical discoveries revealed, and do they not promise to reveal, yet more laws hitherto shrouded in mystery? The discovery made by Röntgen in 1895 upon the rays of light passing through opaque bodies has already raised doubt whether in the ambient in which we live there may not be, without need for induction apparatus or Crookes' tubes, other rays traversing solid bodies which we do not ordinarily see, but which become visible in certain special physical conditions—as happens in the phenomena of clairvoyance (cf. Du Prel, *Les rayons de Röntgen et l'occultisme* in *Revue des Revues*, p. 146, March 1896; Ottolenghi, *La luce Röntgen e la lucidità delle isteriche*, in *Scuola Positiva*, n. 2, 1896; *contra:* Morselli in *Archivio per l' antropologia e l' etnologia*, vol. xxvi. f. ii. 1896). The discovery recently made by our Marconi of wireless telegraphy has suggested the question whether a comparison may not be instituted between a generator and receiver of electricity and two brains, that of the agent and that of the receiver, in such a way as to render it possible to demonstrate the existence of a radiation or projection of psychic-nervous force from the surface of the body and the projection of nervous undulations to a distance, as happens with the Herz and Marconi electrical undulations, and to

explain by the same law mental suggestion and analogous occult phenomena (cf. Ottolenghi, *La suggestione e le facoltà psichiche occulte*, Turin, Bocca, 1900, Parte I. cap. iii. par. 3). The latest discovery, that of the N rays (radium), opens the mind to still greater expectations in the way of the marvellous. And with all this, in the question of miracles, it is a saint and a poet who, when all is said, are found to be right. The saint, who was S. Augustine, taught that miracles occur, not against nature, but against the knowledge we have of nature (*De Gen ad. litt.* lib. vi. c. 13; *De civ. Dei*, l. xxi. c. 8). The poet—Shakespeare—said that there are more things in heaven and earth than are dreamt of in our philosophy.

[25] xxxv. 5, 6, xlii. 7; cf. Bertholdts, *Christologie*, par. 33, n. 1.

[26] S. Matthew xii. 38, xvi. 1; S. John ii. 18, vi. 30.

[27] S. Matthew, xvi. 2, 4.

[28] S. Matthew xii. 40. In the preceding verses (38 and 39) the refusal of the request to work miracles—or give a sign—is repeated.

[29] S. Matthew x. 8.

[30] S. John v. 5-9.

[31] S. John ix. 1-14. For the vulgar opinion regarding the maladies looked upon as chastisements, see Exodus xx. 5. Cf. Strauss, *Vie*, tom. ii. ch. ix. par. 96.

[32] S. John v. 16, 18, vii. 20, ix. 16.

[33] S. John vii. 22-4. The commentators of the Bible err in recalling, with reference to verse 24 of this text, verse 16 of chap. i. of Deuteronomy (cf. *e.g.* Martini, *Volgata*, ibid.). In this passage judges are admonished to judge according to the excellent rule of making no difference of persons, and more particularly between citizens and strangers: *sive civis sit ille, sive peregrinus.* But the admonition of Jesus is infinitely greater in virility, since he reproves every judgment founded on externals and appearances which do not correspond to a malicious consciousness of ill-doing, and founded also on that materiality opposed in itself to the law or to opinion as to what may be lawful, but not animated by malicious intention. Judgments so founded upon appearances and materiality not animated by malice are the delight of conventional hypocrisy and of the legal hypocrisy which still dishonours custom and jurisprudence.

It is our modern sages whose judgments are very contrary to the teachings of Jesus, who condemn the serving-maid found conveying arms by her master's orders, and punish her for carrying arms without a licence, or the humane wayfarer punished in the same way for relieving a wounded hunter of the fatigue of carrying his gun, or the analphabetic rag-dealer sentenced to the minimum penalty of six months' imprisonment for having failed without being able to show his books duly stamped and officially *viséd*, or the mountaineer sent to prison for one hundred days at least on the charge of stealing sticks in the snow-covered wood in order to warm his family who were perishing with cold, and other condemnations of a similar kind.

[34] S. Mark. ii. 27.

[35] Numbers xv. 32-6; Exodus xx. 10, 11, xxiii. 12, xxxi. 15-17, xxxiv. 21; Leviticus xix. 30; Deuteronomy v. 14, xvi. 8; cf. Genesis ii. 2. The Sabbath rest was imposed not only for the theological reason of obedience to the Lord (Exodus xx. 11), but as a national memento of the exodus of the Israelites from Egypt (Deuteronomy v. 15). The texts use the expression "observe the Sabbath day" and "do not work"; one text only says "not do any work whatever" without other specification (Deuteronomy v. 14).

[36] Cf. Paulus, *Exeg. handb.* I. vi. 83; *Schabbath*, f. 12, in Schöttgen, i. p. 123; Strauss, *Vie*, tom. ii. ch. ix. par. 99.

[37] S. Matthew xii. 11, 12.

[38] S. Luke xiii. 15.

[39] S. Luke xiii. 17.

[40] S. John xi. *et seq.* Cf. Josephus, *De belio jud.* IV. ix. 9; Eusebius, in *Onomasticon*; S. Jerome, in *Epist. Paulus.*

[41] S. Matthew xx. 17, 29; S. Mark x. 1, 46, xi. 1; S. Luke xviii. 35. Cf. Curci, *Il N.T. volgarizzato ed esposto in note esag. e mor.* ii. 89, 90.

[42] S. Matthew xxvii. 6 *et seq.*; S. Mark xiv. 3 *et seq.*; S. John xii. 1 *et seq.* It is doubtful whether the supper described by S. John is the same as that mentioned by the two first Evangelists. S. Luke is silent respecting it. The divergencies between S. John and the other Evangelists are very noteworthy. Cf., for a special dissertation on this subject, S. Jerome in *Matth.* cap. xxvi., and S. Anthony, *De Virgin.* As regards the personality of Mary, the hypotheses are various and discordant. Some believe her to be

Mary Magdalene, some the Penitent Woman, some the sister of Lazarus. Cf. Didon, *Jésus-Christ*, Appendix T; Faillon, *Documenti inediti sugli Apostoli di Provenza;* Calmet, *Dissert. delle tre Marie.* It was a token of peace commonly offered by women in the East, and particularly in Judæa, that of preparing and administering such perfumed ointments to persons of distinction whom it was wished to honour. "Nardus mea dedit odorem suum" (Canticles i. and ii.).

[43] Renan, *Vie*, ch. xxvii. A similar transformation in the evangelical figure of Judas was made by Petruccelli della Gattina, *Memorie di Giuda; v.* specially vol. ii. p. 260 in note. The same thing was attempted by Bovio, *v. supra*, cap. vii. note 15. Tertullian and Irenæus had already had to oppose some writers of their time, who held the conduct of Judas to be meritorious, but these writers only exaggerated the feeling of faith, believing that Judas had rendered a great service to humanity by preparing the Redemption! According to a precise statement handed down by tradition, Judas ended by hanging himself (Matthew xxvii. 5). According to another account, "he burst asunder in the midst" after hanging, "and all his bowels gushed out" (Acts i. 18). Papia, reconciling these two accounts, states that the traitor first hanged himself as S. Matthew relates, but the rope breaking, he lived for some time, and at length swelled so much as to burst in the middle. Papias, in *Œcumenio enarrat. in Act. Apost.* Cf. Calmet, *Comment in hunc. loc. Matth.;* Capacelatro, *Errori di Renan*, cap. xx. at the end. Theophrastus in *Matth.* xxvii. 5. According to S. Matthew the field of a potter was bought by the priests with the thirty pieces of silver cast down by Judas in the temple, but S. Luke relates that it was bought by Judas himself (Acts i. 18).

[44] S. Matthew xxvi. 14, 16, xiv. 10, 11; S. Luke xxii. 3-6; S. John xii. 4. *V. infra* concerning the arrest of Jesus effected with the aid of Judas.

[45] S. Matthew xxi. 1, 11; S. Mark xi. 1-11; S. Luke xix. 28-44; S. John xii. 12 *et seq.*

[46] Strauss, *Vie*, tom. ii. ch. x.

[47] S. John xii. 12, 18.

[48] S. John xii. 19.

[49] S. Luke xix. 39, 40.

[50] S. Luke xix. 42-4. According to this Evangelist, Jesus for the second time drove the profane traffickers from the temple. The circumstance, unless due to a mere repetition, is unimportant, since from the Evangelists themselves it appears that the incident was unattended by any noteworthy consequences. Cf. S. Matthew xxi. 12, 13; S. Mark xi. 15-17; S. Luke xix. 45; S. John ii. 14-16; *v. s.* cap. iv.

[51] S. Matthew xxi. 12 *et seq.*; S. Mark xi. 15 *et seq.*; S. Luke xix. 45 *et seq.*; S. John xii. 20 *et seq.*

[52] S. Matthew xxi. 17, 23-45, xxii. 1 *et seq.*, xxxiii. 1 *et seq.*; S. Mark xi. 11, 27, *et seq.*

[53] Didon, *Jésus-Christ*, Paris, 1891, liv. iv. ch. i.

[54] S. Matthew xxvi. 6-25; S. Mark xiv. 3-21; S. Luke xxii. 1 *et seq.*; S. John xiii. 1-28.

CHAPTER IX

The Arrest—Judas guides the Band sent to Apprehend Jesus—The Kiss of Betrayal—The Beginning of an Attempt at Armed Resistance—Another Meeting of the Sanhedrin preceding the Arrest—Juridical Significance of this Meeting—The Order and Form of the Arrest—Provocative Agents—The Use of Spies under the Mosaic Law—The Roman Authority and Military Force have nothing to do with the Arrest—Incompetence of the Jewish Authority to take this Step—Jesus before Annas—Formal Arrest Unjustifiable—Intrigues and Interference of the ex-High Priest—The Nepotism of the Sacerdotal Family—The High Priest Joseph Caiaphas.

Jesus rising from supper with the eleven Apostles—for only eleven now remained to Him—wended His way to the Mount of Olives. On this short nocturnal journey, when the moon shed her light upon Jerusalem, the devourer of prophets, a profound sadness oppressed the fearful souls of the disciples. Some, like S. Thomas and S. Philip, had already during the supper asked questions implying lack of faith; others had rashly sworn that they would go with Him to imprisonment and death, but Jesus manifested some doubt concerning the steadfastness of such professions, and to S. Peter, who declared Himself to be the firmest of all in the faith, He foretold that before the cock crew he would thrice deny his Master. Crossing the dry sandy bed of the Kedron, the dejected company entered a garden in which was a crushing-press, and which on this account was called Gethsemane. Here the soul of the

Master, as He Himself said to S. Peter and the sons of Zebedee, became exceeding sorrowful unto death. "Being in an agony He prayed so earnestly that His sweat was, as it were, great drops of blood falling down to the ground." And while the olive branches, symbols of peace, sole condition of love and mildness among men, rustled and swayed in the night wind under the immensity of the starry heavens, Jesus tasted the bitter cup overflowing with the tears and blood of unredeemed humanity, and resolved to drink it to the dregs.

He was still praying and His disciples were sleeping when an armed band appeared in the garden with torches and lanterns. Judas, who guided them, approached the Master and kissed Him, the signal of identification agreed upon with His enemies.

The first thought of Jesus was to sever His fortunes from those of His disciples, and although knowing all that was to befall Him, He asked, "Whom seek ye?" and they said, "Jesus of Nazareth." Jesus said unto them, "I am He."

As soon as He had said unto them "I am He" they went backward and fell to the ground. Then asked He them again, "Whom seek ye?" and they said, "Jesus of Nazareth."

Jesus answered, "I have told you that I am He; if therefore ye seek Me, let these go their way."

Then the rabble advancing, laid hands upon Him, but Simon Peter at this, having one of the two swords with which the Apostles had provided themselves, drew it and smote the high priest's servant Malchus, cutting off his right ear. The resistance might have continued, and victoriously, owing to the affection and confidence animating the Apostles, but that Jesus hastened to restrain this first impulse of violence by giving Himself

up entirely into the hands of those who had come to arrest Him.

"Be ye come out," He said, "as against a thief with swords and staves? When I was daily with you in the temple, ye stretched forth no hand against Me, but this is your hour and the power of darkness."

To Judas He said, "Judas, betrayest thou the Son of Man with a kiss?" He was then bound and taken out of the garden while His eleven disciples fled.[1]

This arrest, effected in the night between Thursday and Friday, the last day of the life of Jesus, on Nisan 14, according to the Hebrew calendar, was the execution of an illegal and factious resolution of the Sanhedrin.[2] After the triumphant entry of the Nazarene into Jerusalem on the preceding Sunday, Nisan 9, the priests and elders of Jerusalem, who had many times sought to convict Jesus of some flagrant violation of the law, but had not succeeded, or rather had not the courage to seize Him for fear of the people, whose favour He enjoyed,[3] held a meeting on the Wednesday following, Nisan 12, at which they discussed the means of getting hold of Jesus. It was finally decided to arrest Him, even though illegally, and have Him put to death.[4]

This was the idea, or rather the preconceived idea, of the resolution which led to the arrest in the Garden of Gethsemane. There was no idea of apprehending a citizen in order to try him upon a charge which after sincere and regular judgment might be found just or unfounded: the intention was simply to seize a man and do away with him. The arrest was not a preventive measure such as might lawfully precede trial and condemnation: it was an executive act, accomplished in view of a sentence to be pronounced without legal justification. Hence the impudent mockery of an examination accompanied by violence against the accused,

the subornation of witnesses bearing false and discordant testimony, the flagrant pretext of the capital offence of blasphemy having been committed by the accused when defending Himself, the vulgar farce of the examining judge's simulated horror and anger on so-called proof of the prisoner's guilt being offered, and finally the application of the death penalty as the result of proceedings invalid both from a legal and ritualistic point of view. Futile and miserable acts of Pharisaical hypocrisy were, in fact, resorted to in the effort to give a shadow of legality to the ferocious and sanguinary action of those who acted with premeditated malice. Nevertheless, all these measures appear to Renan to have been marked by a great spirit of order and conservatism![5] But what measures does Renan really refer to? Was it a justifiable measure of order and police to set aside the spontaneous and unprejudiced development of a criminal process? And was it really a fair proceeding, and not a dishonourable act, to arrest a man not as one who was to undergo a fair trial, but as one already condemned in anticipation? *Consilium fecerunt ut Jesum dolo tenerent et occiderent*—they held counsel with the object of devising means to take Jesus by subtlety and kill Him. S. Luke relates that the chief priests and scribes had lost no time in sending out spies to watch Jesus and report all His acts and words.[6] According to Renan[7] these spies also approached the disciples, hoping to obtain from their weakness or simplicity information of value to their employers, and in Judas Iscariot they found the man they sought. Hence they sought and found a Judas, not in order to be able to effect an arrest that might have been the legal consequence of a legal charge, but to collect information and evidence to support the pretext alleged for the execution of a capital sentence, while

at the same time they seized the man whom they had determined to do away with. It must be observed in this connection that Jesus could easily have been arrested at any time, when one remembers how open and frank His conduct was, and known to be so by all His following. Hence it follows that the fresh and definitive resolution of Nisan 12 did not on the one hand formulate a sufficiently specific charge, in so far as the necessary data were sought to be obtained by provocative agents; on the other, it resolved itself into a predetermined condemnation, or was rather the outcome of an official conspiracy to suppress the man whom the priests, scribes, and Pharisees so much hated.

But in no case could the arrest made at Gethsemane proceed from an order regularly given, for the simple reason that the Sanhedrin had no power to issue it. It will be shown that as an effect of the conquest of Palestine the right of inquiry and of arrest in capital charges was reserved to the conquering Power (Rome), and that the Jewish authority could not therefore order the arrest of Jesus, who was charged with a capital offence.[8] And in fact the Evangelists do not mention any formal order of arrest emanating from the Sanhedrin, but only, it is necessary to repeat, the intention of the priests and scribes to seize Jesus by surprise.

It is the general opinion, as represented in pictorial art from the earliest times to modern days, that the band sent from the Jewish temple to arrest Jesus included some Roman soldiers. But with every respect for the authority of critics and distinguished artists, who, moreover, had no means of verifying this historical detail, I believe the opinion to be erroneous because founded on an expression in the fourth Evangelist which disagrees with the text of the Synoptics. S. Matthew and S. Mark mention "men sent by the high priest,

and elders of the people";[9] S. Luke first speaks of "a multitude" and then of "the chief priests and captains of the temple, and the elders who went out against Jesus."[10] S. John relates that Judas received a band of men and officers from the chief priests and Pharisees; and that this band and the captains and officers of the Jews took Jesus and bound Him,[11] and from this passage it is sought to argue that the Jewish authorities had requested the aid of Roman soldiers.[12] But as regards the mention of a band, this expression, though it may signify a number of armed men, is not sufficient to indicate that these men were Roman soldiers, and all the less so since staves as well as swords are mentioned as among the weapons carried. Hence the band spoken of by the fourth Evangelist cannot have belonged to the Roman garrison. Judas, in fact, got his escort from the chief priests and Pharisees, and they had no control over the Roman soldiery. Moreover, the Greek word σπεῖρα, which is translated cohort (*cohors*), means an armed band and not a special detachment of the Roman army. As to the officer (χιλίαρχος) whom the Vulgate calls tribune (*tribunus*), the Greek word does not always and exclusively mean an officer of that rank in the Roman army who held an important position and had a special residence. In its literal sense the word signifies officer, captain, and most often, but not necessarily, tribune.[13] Now S. John may have used the word in its broader, although less usual, sense as referring to the commander of the temple guard accompanying Judas (who could not take with him a Roman standard) in the brilliant operation of Gethsemane, and in that he would be in complete accord with the Evangelists themselves, who mention neither tribune nor cohort. S. Mark, who also does not mention this point, speaks of cohorts and soldiers only at the time when

Jesus is scourged in the Pretorium.[14] If therefore it is maintained that S. John cannot have used the Greek word in a signification different from what was often given to it, and especially in the New Testament, then the term which he employed must be regarded as incorrect or inappropriate. But this inaccuracy or inappropriateness in the fourth Gospel is not always ignored by orthodox, and is till less denied by heterodox, criticism, which assigns it, not to the first apostolic age and to S. John, but to a time and an author indicating a testimony less direct and less precise regarding the facts of the life of Jesus.

Moreover, all the reasons influencing the logical development of these facts lead to an entirely contrary conclusion. The *tribuni militares* or *militum* were not corporals or centurions to be found in any company of Roman soldiers mixed up in any riotous or police business. Elected first by the consuls and then by the people in the *comitiæ*, they never numbered more than six for each legion; and held a high position in the organisation of the Roman army.[15] Now I cannot entertain the idea that no less a personage than a military tribune clad in the splendid armour of his rank in the Roman army could have found himself in the midst of a rabble armed mostly with staves creeping through a garden like police, led by a spy, commanded and urged forward by four priests, perhaps muttering *Adonai elænu, Adonai echad,* in order to ensure success of the cowardly device by which they had made a kiss to be the signal of the betrayal of their victim. This rabble fell back and stumbled at the first words spoken by Jesus when they approached Him; they left on the ground an ear cut from the head of one of their number, without seizing the aggressor; and the only spoils they had to boast of consisted of a linen cloth torn from

the naked body of a young man who was following Jesus, whom they endeavoured to stop, but who succeeded in escaping from them.

A centurion, a Roman military rank not unknown to the Evangelists, would have been too much to expect in such surroundings,[16] if even as many as a hundred Roman soldiers were there. And by whom could the services of this centurion have been applied for, and who would have commanded him? Did the chief priests request him from Pilate? This must be presumed by any one who supposes that the Roman authority intervened in the events of the evening of Nisan 14 in order to preserve public order,[17] but the supposition is arbitrary and absurd. It is arbitrary, because there is not a word in the New Testament of any Roman intervention with such an object, whereas any instance of Roman interference when really occurring is mentioned with no lack of detail, from the moment that Jesus was taken before Pilate to the end; and it is absurd, because if the Jews had not the power of arrest and inquiry for capital offences, as has been already stated and proved, it would have involved a juridical contradiction had Roman aid been lent to an executive act which would have ignored and usurped the exercise of their own judicial power. That the Jews in capturing Jesus may have feared a popular rising is likely, and may be true, but that was a matter that regarded themselves, since in the case of a rising they would fail in their enterprise, whereas the Romans, fearing possible disorder, might see reason to prevent and not aid the capture of Jesus, which, besides being an illegal, was a dangerous step. And then the Evangelist who mentions the fears of a popular tumult relates that the sole effect of these apprehensions was to decide the Jews to seize Jesus on a day that was not a feast day and to arrest Him with

the aid and intervention of the Romans.[18] On the contrary, if Roman intervention had been solicited, this was the place where it would have been opportunely, not to say necessarily, mentioned, whereas to have kept silence on the point is equivalent to denial.

Nevertheless, it may be held that some Roman soldiers found themselves at Gethsemane on that Thursday evening, attracted thither by mere curiosity. S. John mentions the officer who is supposed to have been Roman because he and the cohort alleged to have been his helped the captain and officers of the Jews to bind Jesus.[19] An intervention arising from mere curiosity would, however, have no juridical value, and would resolve itself into nothing more than an anecdotic detail of an idle and imaginative character.

Let us add to all this the feeling of surprise so strongly manifested in Pilate's demeanour on the appearance of Jesus before him, and above all his obstinate resistance to the capital charge and the demand for the death sentence that reached him so clamorously from the immolators of the innocent. Had the arrest been authorised, arranged, and aided by the Governor, the latter could only have regarded the trial and sentence as two stages of the matter following the arrest, and unless he opposed the arrest he could not oppose its natural consequences.

It is necessary, therefore, to bear in mind that the arrest of Jesus was not due to any order legally given, since the Jews had no power to issue such an order, and the Romans, to whom the right belonged, had no occasion or motive to exercise it.

The supposition that any regular order could have been given is further excluded by the attitude of the Jewish authorities towards the disciple of Jesus who offered armed resistance to the arrest and seriously wounded and permanently disfigured one of the party

sent against Jesus. Had Simon Peter resisted a legal and formal order he would not probably have gone unpunished.[20] Simon Peter timidly followed the Master (timidly because he feared to be charged with complicity), and was recognised by a woman in the hall of the high priest's palace, and even by a relative of Malchus, the servant whom he had wounded, but was not called by any one to account for the violence and rebellion of which he had been guilty.

It must, moreover, be observed that the execution of a legal order could never have been mixed up with an ignoble betrayal, agreed upon between the betrayer and the magistrates from whom emanated the order of an arrest. When the enemies of Jesus, in order to attain their end, made use of that contemptible yet dangerous weapon of the judicial police known as the informer, it did what is still too much done in our own day. At present the penal legislator, who may not profess the utilitarian principles of Hobbes and Bentham as a philosophical basis for the right to punish, accepts the convenience of making use of informers as one accepts manure for enriching fields, although nobody would ever soil one's hands with it.[21] But the priesthood and the magistracy of the temple could not use Judas, the faithless friend and disciple, while at the same time issuing an order in the name of the law; since their law, differing in that respect from ours, proscribed and condemned as illegal such an ignoble act as the betrayal of Jesus proposed by Judas. The chief priests and elders could certainly not be accomplices in that betrayal, except as private individuals, though crafty and pusillanimous enemies of Jesus. The Hebrew legislator is more often a moralist than a legist, and throughout the Hebraic law there is constant mention of things that are not commanded but recommended, so that an im-

moral action became also illegal if deprecated or censured by the law.[22] Now the action of Judas, judged by the Mosaic law, was in the highest degree both immoral and illegal. We read in Leviticus: "Thou shalt not go up and down as a tale-bearer among thy people, neither shalt thou stand against the blood of thy neighbour. Thou shalt not hate thy brother in thine heart. Thou shalt not avenge nor bear any grudge against the children of thy people, but thou shalt love thy neighbour as thyself."[23] Well, it is clear that Judas hated his brother in his heart, even his Master whose arrest be obtained and directed; it is clear also that he stood against the blood of his neighbour by exposing Jesus to the pain of death; it is clear that all this was done through hate, since he could not have so acted through difference of opinion or from horror of opinions which he had hitherto shared with the other disciples; finally, there is no doubt that he wreaked on Jesus a base vengeance and displayed a deep rancour against Him, whom the law enjoined him to love, even had He not been, as He was, worthy of infinite love. Hence the use that was made of the treacherous emissary could not have been official, nor could the arrest have been official, closely connected as it was with the betrayal.

Now the Master, betrayed, sold to His enemies, and abandoned, is bound and led before Annas. The latter was no longer high priest, but was father-in-law to Caiaphas, the then holder of that office. Annas, son of Seth, received the office of high priest from the legate Quirinus in the year 7 of the Christian era, and was deposed from it in the year 14 on the accession of Tiberius. He still retained great influence by virtue of intrigue, and whether solicited or not, intervened in all the affairs of the high priesthood. For fifty years the pontificate had remained in his family, which was

called the sacerdotal family, as if the high priesthood had become an hereditary dynasty. Almost all the great posts in the temple were held by him, and five of his sons in succession held the pontificate.[24]

In the year 29 the pontificate was held by his son-in-law, Joseph Caiaphas, nominated by Valerius Gratus, since these nominations were always made by the Roman procurators from the time of the Roman sway being inaugurated at Jerusalem. Caiaphas entered upon his office in the year 25, and only quitted it in the year 36. His intellectual calibre was below mediocrity, and the power that he wielded only nominal. The real sacerdotal authority lay in the hands of his father-in-law, who reserved for himself the direction of important matters, while assuring the succession to the pontificate to the members of his family by way of unlimited nepotism, a system not unknown in public offices in these days among ourselves.[25] Renan recognises the evils of this system of succession to the pontificate, notwithstanding the indulgence which he manifests towards the betrayers of Jesus—as if the latter had not been declared by Renan himself to be the best of men. He believes that the idea of the arrest came from Annas.[26] And this is not unlikely, in view of the singular fact that it was before himself, and not before his son-in-law, that Jesus was brought in the first instance.[27] This also again leads us to believe that the arrest was arbitrarily and not legally ordered, since it would otherwise be both inexplicable and inexcusable that the case of a person arrested should be taken out of the regular course of procedure in order to be subjected to the curiosity and malice of an intruder. Probably this old intriguer explained his unwarrantable interference on this occasion on the ground that he also was an informer and an accuser like Judas and the others who, armed with

staves, and not with legal right, aided the seizure of Jesus and His indictment before the supreme Roman authority in Jerusalem.

The whole action of the Jews regarding the trial and condemnation of the Nazarene cannot be considered otherwise than under the juridical aspect of an accusation based upon the reports of informers. Perhaps the chief priests themselves, the elders, the scribes, Annas and the others did not pretend to arrest Jesus on their own authority, but only to get possession of His person in order to send Him for judgment to the Roman procurator. The act of Nisan 14 was not an arrest made in consequence of a regular information, nor, as our own penal law expresses it, in consequence of public clamour. Hence the priests, the elders, and the other accomplices in the savage and fanatical vendetta could not believe that Jesus was being legally tried when they questioned and insulted Him before the Sanhedrin. At most they could only simulate a sort of preparatory indictment which they both desired and were compelled to refer to the Pretorium.

Caiaphas lived under the same roof with his father-in-law, but it was necessary to cross the courtyard in order to pass from the residence of the one to that of the other. S. Peter and S. John followed the Master thus far—at a distance and cautiously. S. John was known at the sacerdotal palace, although only a poor Galilean fisherman—perhaps because his father Zebedee supplied fish from the Jordan to the sacerdotal family [28]—and was therefore allowed to enter. But S. Peter was stopped at the door, so that S. John had to turn back and ask the portress to let S. Peter in. The portress, who was a young woman, said to Peter: "Art not thou also one of this man's disciples?" He said: "I am not," and in order to warm himself drew near a brazier

that had been lit by the servants and officers, the night being cold, as often happens in Palestine even in April. Annas meanwhile began to question Jesus, Caiaphas, who had appeared shortly before, being present. Jesus was asked concerning His disciples and His doctrine. He replied: "I spoke openly to the world. I ever taught in the synagogues and in the temple, whither all the Jews come together, and in secret spake I nothing. Why askest thou Me? Ask them which heard Me what I have said unto them. Behold, they know what I said."

This reply was the only one that could be expected by him who desired the death of the accused, and who perhaps knew that he merited such an answer. It appeared, however, so irreverent to one of the officers who stood by, that he struck Jesus with the palm of his hand, saying, "Answerest Thou the high priest so?"—another proceeding also testifying perhaps to the perfect and legal order observed, according to Renan, in the procedure against the accused of Nazareth! Jesus gently said to the man who had struck Him, "If I have spoken evil, bear witness of the evil, but if well, why smitest thou Me?"

The disciple who had just denied the Master, after loudly declaring that he was ready to suffer imprisonment and defy death for Him, now again approached the brazier to warm himself. Betrayed by his Galilean accent and pressed by questions, he again denied having anything whatever to do with Jesus. And he repeated his denial for the third time when questioned to the same effect by a relative of Malchus, the high priest's servant whom he had wounded in the Garden of Gethsemane. This man had seen him in the garden with the other disciples. The cock crew, and S. Peter, moved by his sudden recollection of the Master's words, went out and wept bitterly. At that moment Jesus, strongly bound,

passed through the courtyard and was taken from Annas to Caiaphas, who intended to re-examine Him while the members of the Sanhedrin were being summoned for another meeting.[29]

And while they are being aroused from sleep, we shall collect the proofs serving to show that the procedure against Jesus was even more than a great injustice and evident illegality.

Notes

[1] S. Matthew xxvi. 47-56; S. Mark xiv. 43-50; S. Luke xxii. 47-53; S. John xviii. 3-12. Only this Evangelist here mentions the incident of S. Peter and Malchus (verse 10). He also records the query of Jesus, "Whom seek ye?" (verse 4 *et seq.*). The Synoptic Gospels only mention the mild reproof of the Master to Judas. One detail being reconcilable without difficulty with the other, I have accepted them both. S. Mark adds to this passage that "a certain young man followed with Him (Jesus), having a linen cloth cast about him over his naked body, and they lay hold on him; but he left the linen cloth and fled naked."

[2] The Hebrews reckoned their official day from sunset to sunset of the natural day. Hence the arrest, the trial, the condemnation and the execution of Jesus all occurred on Nisan 14, which commenced at sunset of Thursday, April 6, according to the calculation which follows below. According to our calendar all the proceedings, therefore, took place between the evening of Thursday, April 6, of the year 29 after Christ (783 A. U. C.), and the afternoon of Friday, April 7, though according to the Hebrew reckoning all occurred within the space of a single day —Nisan 14. For a clearer understanding of the facts and dates which I shall have to mention farther on, I append the following synoptic division of the time in the last week of the life of Jesus:—

April 2, Sunday	Up to sunset.	Nisan 9.
	After sunset.	Nisan 10.
April 3, Monday	Up to sunset.	Nisan 10.
	After sunset.	Nisan 11.
April 4, Tuesday	Up to sunset.	Nisan 11.
	After sunset.	Nisan 12.
April 5, Wednesday	Up to sunset.	Nisan 12.
	After sunset.	Nisan 13.
April 6, Thursday	Up to sunset.	Nisan 13.
	After sunset.	Nisan 14.
April 7, Friday	Up to sunset.	Nisan 14.
	After sunset.	Nisan 15.
April 8, Saturday	Up to sunset.	Nisan 15.

Jesus entered Jerusalem attended by the acclaiming multitude on Sunday, April 2 (Nisan 9). The Sanhedrin met to confirm its project of seizing Jesus on Wednesday, April 5 (Nisan 12), if the meeting took place in the day-time, or on Nisan 13 if at night. After sunset on Thursday, April 6, when Nisan 14 had already commenced, Jesus was arrested. Before sunset on Friday, April 7—that is, towards the end of the day Nisan 14—the trial, condemnation, and execution of Jesus had been accomplished. From sunset on Friday, April 7, to sunset on Saturday, 8, and all Nisan 15, was Easter time.

[3] S. Matthew xxi. 45; S. Mark xiv. 10, 11; S. Luke xxii. 5, 6.

[4] S. Matthew xxvi. 3-5; S. Mark xiv. 1, 2; cf. S. Luke xxii. 2.

[5] *Vie*, ch. xxiii. Similarly Salvador, *Histoire des institutions de Moïse*, liv. iv. ch. iii.

[6] S. Luke xx. 20.

[7] Renan, *l.c.*

[8] Castelli, *La legge del popolo ebreo nel suo svolgimento storico*, Florence, Sansoni, 1884, cap. viii.

[9] S. Matthew xxvi. 47; S. Mark xiv. 43.

[10] S. Luke xxii. 47, 52.

[11] S. John, xviii. 3, 12.

[12] Strauss, *Vie*, tom. ii. ch. iii. par. 127. Cf. Lücke and Hase, quoted in the same sense as Strauss.

[13] It is true that in other passages of the New Testament the words *σπεῖρα* and *χιλίαρχος* are equivalent of the *cohors* and

tribunus of the Roman army (Acts x. 1, xxi. 31-3, 37, xxii. 24, 26-9, xxiii. 15-19, 22, xxiv. 7, 22, xxv. 23, xxvii. 1), and that the same use of these two words occurs in Polybius, in Plutarch and some other authors, but then it does not necessarily follow that such must be the sense in which they were employed by S. John in this passage, where logical reason overrides philological considerations, more particularly as S. John in his Gospel is generally considered to be deficient in philological and historical clearness. Still, philologists may be right, in which case S. John must be wrong. A. Loisy, although on other grounds, impugns the statement that a cohort and a tribune were present at the arrest of Jesus (*Le quatrième évangile*, Paris, Picard, 1903).

[14] xv. 16.

[15] Livy, vii. 5, xlii. 31, xxiii. 14, xliv. 21; Festus, *s. v. Ruffuli.* They are called, in fact, *Ruffuli* and *Comitiati.*

[16] Cf., *e.g.*, S. Matthew viii. 5-13, xxvii. 54; S. Mark xv. 39; S. Luke vii. 1-10, xxiii. 47.

[17] Cf., *e.g.*, Didon, *Jésus-Christ*, ch. ix.

[18] S. Matthew xxvi. 5: "But they said not during the feast, lest a tumult arise among the people."

[19] xviii. 12: "Cohors ergo et tribunus et ministri Judæorum comprehenderunt Jesum et ligaverunt eum." This work of manacling the prisoner is indeed too ignoble a part to assign to a *tribunus militum* of Rome.

[20] There is no article in the Mosaic law corresponding to the "resistance" or to the "qualified lesion" of the Italian Penal Code (Arts. 190, 372, 373, in connection with Art. 365, n. 2), nor even to the provisions, somewhat less specific, of the *Lex Julia de vi publica* (*Dig.* xlviii. 6) and of the *Lex de custodia et exhibitione reorum* (*Dig.* xlviii. 3). Nevertheless, there is no lack in the Mosaic law of clear penal provisions—almost all of the pecuniary order—against wounding, the punishment for which was assessed according to the physical constitution of the injured person or the kind of blow, the manner of wounding, and even the social and pecuniary position of the sufferer—see, *e.g.*, Exodus xxi. 18-22, 24, 25-7; Leviticus xxiv. 17, 19, 20; Deuteronomy xix. 21. Cf. Maimonides, *Hahobel vehammezik* (Of Lesions and Injuries), ii. 10; Josephus, *Antiq.* iv. 8; Ewald, *Alterthümer*, p. 232; Castelli, *La leg. del. pop. ebr.* cap. v. On

this question of the illegality of the arrest, cf. Dupin the Elder, *Réfutation du chapitre de M. Salvador intitulé Jugement et condamnation de Jésus*, par. iii. in the *Gazette des Tribunaux*, 9 *dic.* 1828. The chapter of Salvador thus refuted is the third of book iv. of the work *Histoire des institutions de Moïse et du peuple hébreu*. The rule laid down in the Talmud, that the assailant should remain in prison until it was proved that the wound which he had inflicted would not cause death, was therefore the same as in our own law. Cf. *Nechilta*, *Nezikim*, par. 6; *Sanhedrin*, 78.

[21] Carrara, *Lineamenti di practica legislativa*, 2nd ed. p. 373.

[22] Reuss, *Die Geschichte der heiligen Schriften d. A. T.* par. 292, quoted by Castelli, *La leg. del. pop. ebr.* cap. viii.

[23] Leviticus xix. 16-18.

[24] Josephus, *Antiq.* xxiii. 3-6, xx. 8-10. In this passage the names of the high priests from the reign of Herod to the destruction of Jerusalem are given as follows:—1. Ananelus; 2, Aristobulus; 3, Jesus son of Phabes; 4, Simon son of Boethus; 5, Matthias son of Theophilus; 6, Joazarus son of Boethus; 7, Eleazar son of Boethus; 8, Jesus son of Sia; 9 Ananus son of Seth; 10, Ismael son of Phabes; 11, Eleazar son of Ananias; 12, Simon son of Camitus; 13, Joseph Caiaphas son-in-law of Ananias; 14, Jonathan son of Ananias; 15, Theophilus son of Ananias; 16, Simon son of Boethus; 17, Matthias son of Ananias; 18, Elionœus son of Canthera; 19, Josephus son of Camitus; 20, Ananias son of Nebedeus; 21, Jonathan; 22, Ismael son of Phabes; 23, Josephus Cabi son of Simon; 24, Ananias son of Ananias; 25, Jesus son of Danneus; 26, Jesus son of Gamaliel; 27, Matthias son of Theophilus; 28, Phannias son of Samuel. There were therefore twenty-eight high priests during a period of 160 years. "Some of them," says Josephus, "under the reign of Herod and of his son Archilæus had a share in the government. After their death, the government became aristocratic, and the leadership of the nation remained with the high priests" (*l.c.* z). The government of Archilæus was called aristocratic at the time of the war solely because the descendants of Herod, except the two last Agrippas, were not kings but tetrarchs, and the whole nation, divided into several tetrarchates, had no common head but the high priest.

[25] Josephus, *Antiq.* XVIII. iii. 2, vi. 1. A Hebrew writer, author of a pamphlet upon the judicial execution of Jesus, argues that this act was due to the Romans and not to the Jews, and tries to maintain that the name of the high priest Caiaphas, who is only mentioned by S. Matthew and S. John (and certainly he is not mentioned by the other two Evangelists) is not recorded in history. He is, however, compelled to admit that Josephus clearly states that the high priest Joseph, who held the sacerdotal dignity from the procurator Gratus and was dismissed by Vitellius after the fall of Pilate, bore the surname of Caiaphas. Dr. L. Philippson, *Proc. condan. e supplizio di Gesù*, Loescher, 1881, p. 55 *et seq.*; *contra*, M. Rosati, *Sull' opusc. di L. D. Philippson tradotto dal tedesco da M. Ehrenreich. Esame*, Rome, Puccinelli, 1881.

[26] *Vie*, ch. xxiv.

[27] S. John xviii. 13.

[28] Cf. Curci, *Il N. T.*, etc., in S. John i. 35 and xviii. 10, 16. It was particularly in the southern reaches of the Jordan that fish were most plentiful, since they generally went down-stream toward the warmer water of the south. Among the Hebrews women were generally employed as doorkeepers of houses. Cf. 2 Kings iv. 6; Acts xii. 13; Josephus, *Antiq.* VII. ii. 1.

[29] S. Matthew xxvi. 57-75; S. Mark xiv. 53-72; S. Luke xxii. 54-62; S. John xviii. 12-27.

CHAPTER X

The Political Constitution of Syria in Regard to Roman Law—The Conquest of Syria by Pompey—The Reign of Herod the Great, and the Territorial Division made Between Archelaus, Philip, and Herod Antipater—The Principality of Archelaus withdrawn from the Latter and transferred to the Governor before the Trial of Jesus—Consequences of the Roman Conquest in Financial and Police Matters, and in the Department of Justice—Colonies, Municipalities, and Provinces—The Office of Governor, and of the Procurators officiating as Vice-Governors—The Jurisdiction of Vice-Governors in Cases involving Capital Punishment—The General Opinion regarding the Jurisdiction of the Sanhedrin refuted—Why the Judgment of the Sanhedrin was an Abuse of Power—The Action of Justice in Inverse Ratio to the progress of Humanity—Why Judges Untrammelled by the Spirit and Interests of Conservatism would not have condemned Jesus—Class Justice and Political Offences—The Sanhedrin usurped Roman Jurisdiction in Order to defend Class Interests and Beliefs—Why the Vice-Governor, left Free in his Jurisdiction, should have collected the Proofs, and conducted the Whole Trial himself—The Arrest of the Person charged was also a Matter within his Jurisdiction.

THE country in which these events occurred was no longer anything but a province subject to Rome. It had been reduced to that condition by Pompey, who, after despoiling the last king of the Seleucid dynasty, took possession of the whole of Syria.[1] The political dissensions and national differences existing in this country rendered it unsuitable for a sole and uniform organisation, and so its conqueror divided it into two parts,

one consisting of free citizen districts, the other of small principalities. A quarter of a century later, Judæa, which formed part of Southern Syria, again became a kingdom bestowed by Anthony and Octavian upon Herod the Idumæan, called the Great solely from the fact of his long tenure of the throne, which only ended with his death after a reign of forty-four years.[2]

On the death of Herod, his kingdom was divided among his three sons—Archelaus, Philip, and Herod Antipater. But these provincial dynasties in conquered provinces were regarded by the Romans as dependent in respect of tributary administration—so much so, in fact, that they were even called procuratorships.[3] The northern and poorest district was assigned to Philip, who held it until his death in the year 34.[4] Galilee and Perea went to Herod Antipater, who reigned there as tetrarch until the year 39, when he was relegated by Caligula to Lugdunum. The principal district—that is to say, Judæa, Samaria, and Idumæa—was assigned to Archelaus, who reigned there until the year 6, when he was deposed by Augustus, and transferred to Gaul.[5]

In that year the principality of Archelaus was taken possession of by Publius Sulpicius Quirinus, who had succeeded Quintilius Varus in the governorship of Syria, and was taxed by him as forming part of the Roman province. This is the celebrated assessment of Quirinus which is made to coincide with the birth of Jesus. From that time forward, monarchy was abolished in that region, part of the country being placed under the immediate administration of Rome, while the internal government of the remainder, so far as compatible with Roman sway, was left to the Sanhedrin at Jerusalem. The Roman administration was entrusted to a procurator *cum jure gladii*, who was subordinate to the Lieutenant-Governor of Syria, and this form of adminis-

tration lasted from the year 6 to the year 41 after Jesus, during which period seven Roman officials succeeded each other in the office.[6] Hence in the year 29, in which the trial of Jesus took place and the events occurred which gave rise to it, Jerusalem, the principal city of Judæa, belonged to a province of Rome dependent upon the Lieutenant-Governor of Syria, that post being then held by Flaccus Pomponius,[7] one of the companions in vice of Tiberius; the actual government being exercised in the name of Pomponius by a procurator named Pontius Pilate.

It is necessary to insist on this historic date, since it forms the basis of every research and argument concerning the execution on the hill of Golgotha. The vulgar do not understand this insistence, and it is thus we find that, in every-day life, to describe any detail not regarded as pertinent to the main question they have a proverbial saying, "It comes in like Pilate in the Creed." The Christian Church insists, it is true, upon the detail that has given rise to this proverb, in determining a principal article of faith—which is the passion and death of Jesus occurring under Pontius Pilate —but does not exactly take into account all the premises and all the consequences connected with the historical truth concerning the office of Pilate. For the last nineteen centuries orthodox and heterodox critics have been repeating that Jesus was tried and condemned with more or less injustice by Hebrew judges according to the Mosaic law, and that Pilate, with more or less cowardice, gave effect to that sentence—as if, considering his official position, he could, or ought, to have done otherwise than approve or disapprove it. But here appears the old error which has induced even the most ardent Catholics to believe that the capital sentence pronounced against Jesus was unjust, but not illegal. A clear idea

of the juridical constitution of the Roman province and of its consequence in practical working will suffice to explain the truth in this matter, which differs altogether from the opinion commonly held. The civil institutions of Rome are all framed in view of the exigencies of war. The language itself reflects this fundamental element of their structure: *hostis* is at the same time the enemy and the foreigner, to whom no rights of any kind are accorded; *imperium*, which is a word expressing power in its highest and completest form, is simply a military expression; *equites* are citizens of a distinct order having their origin in a warlike function—*i.e.* in the mounted military service; *stipendium* is the perpetual war tax paid to Rome by the province as pay due to the victorious army; *quiritarium* is called the dominion from *quiri*, which also signifies *asta*. The very principles of private right, although elaborated by the great juridical Power that has made Rome the Mother of Law, do not conceal the spirit of conquest and the underlying idea of belligerent force. Occupation is the best title to the acquisition of dominion; tradition is the juridical means necessary for its transmission. Proprietorship conquered by arms cannot therefore be other than full and legitimate, and the right of conquest must produce the greatest and most indisputable results of force converted into right.[8] And so it is. The public finances of Rome were all furnished by the proceeds of war. To establish and increase them Rome during seven centuries followed no other policy than that of making war upon the world, and where she could not herself exercise rights of conquest owing to the limited expansion of her own population, she did not, for that reason, fail to render the conquered countries tributaries, and reserved to herself the supreme direction of order and law. Colonies, municipalities, and provinces are the in-

stitutions natural to her conquering genius. Her colonies did not arise, like those of the Greeks, from an overflow of indigenous population, or from intestine struggles compelling emigration: they were means to conquer new lands and expropriate them. Rome left to the populations of these lands the internal government, the policing of the towns, and judicial power, but only in minor cases, retaining for herself the power to make laws and to apply them in cases of life and death. The municipalities were cities enjoying Roman citizenship, but otherwise they did not differ from the colonies, and sometimes successfully sought to be placed on the same footing as the latter.

The countries conquered outside Italy were governed by a system of procurators.[9] The province was a farm of the Roman people, and provincial soil was regarded as the property of Rome. The tribute paid to the Roman State by dynasties or citizens as in Syria were regarded as land revenues (*vectigalia*) due to the proprietor. Hence the governing idea of the provincial institution was primarily financial in its object, and it mattered little that all the provinces were not governed in the same manner or subject to the same burdens. The Romans, those positivists of antiquity, rejected in their administrative system every idea of concentration or of blind and symmetrical uniformity, and adapted their regulations to the various conditions of civilisation, and to the traditions, wealth, and even docility of the conquered peoples. Sicily and Sardinia, accustomed to the extortions of Carthage, were treated very badly, and Judæa, with its troubled history, worse still,—so much so that it had to pay a larger tribute than the other Syrian subjects of Rome. These exactions were not, however, made with unity of system, being in some places collected by publicans and in others by the Roman agents

themselves.[10] But the system of regarding the provinces chiefly from a revenue-producing point of view, although involving on the part of the Roman State indifference to their internal government, to the policing of the towns, to the rights and duties of religion, and even to judicial power in minor matters in the provinces, in no way implied abdication or delegation of the supreme exercise of public law, the first and most jealously guarded function of which is the administration of justice. It would have been acting senselessly from a political and juridical point of view to conquer a people and relentlessly subject it to a war tax while at the same time leaving it master of the most powerful means of effecting a national redemption. Such contradictions did not enter into the policy or legislation of the Romans, who from the time of the Twelve Tables claimed the exercise of perpetual authority as against the enemy and the foreigner. "In hostem æterna auctoritas este." The right of life and death is the principal attribute of their sovereignty and was never relinquished, in order not to lessen their power; the rest they might neglect, owing to the tendency of assured dominion to produce easy tolerance. "Apud Romanos jus valet gladii, cætera transmittuntur."[11] It is clear, then, that in view of such general principles, it is not likely that a Roman province like Syria, at the time of which we write, should have the power to try capital offences and pronounce sentence of death, even if leaving the execution of the sentence subject to the assent of the representative of Rome.

It is neither probable nor true.

Were it otherwise, and had Rome only reserved to herself fiscal power and the enjoyment of the war tax, but as regards all the rest, and even in the highest functions of justice, had only claimed a simple right of *exequatur*,

she would only have placed in the provinces mere revenue officials and procurators attached to the Imperial treasury administration. Such officials were sent, it is true, but Rome at the same time appointed to every province a governor invested with ample powers and charged with important duties, which could be exercised by the procurators in virtue of explicit delegation (as will be seen happened to Pilate) in the small provincial districts where no governor resided.

Fuller knowledge of the power and function conferred upon the governors, and procurators who acted in their stead, is sufficient to show that the exercise of supreme judicial power not only in its final executive phase, but also in its fundamental and most important jurisdiction, was reserved to those magistrates.

When Augustus divided with the people the provinces of the Empire, the Senate nominated as governor of the provinces assigned to the people its own representative, who was the proconsul, and the Prince appointed to govern his provinces citizens of the equestrian order, who became governors, lieutenants, and legates. Hence the distinction between consular provinces and presidial provinces, but the title of president was common to every governor, while that of proconsul was exclusive. In any case the authority and the office of the legate of Cæsar and of the proconsul of the Senate were nearly equal. The difference may perhaps have consisted, more than in anything else, in certain ceremonious honours, such as the fasces which were borne before proconsuls as part of their insignia of office, and were at first twelve and at a later period six in number, whereas the governors never had more than five fasces. The former were saluted as *spectabiles*, the latter only as *carissimi*.[12] The governor of the province, whether president or proconsul, exercised his authority not over the provincials alone,

but also over foreigners guilty of any violence, his duty being to purge the province of every evil without regard to whence it came.[13] He had the *jus gladii*, or the right of capital punishment,[14] and, says the Justinian text, tried all the cases that in Rome fell under the jurisdiction of the prefect of the city, the prefect of the Pretorium, the consul, the prætors, and all the other magistrates.[15] Now it is certain that when Augustus suppressed the ordinary jurisdiction—which embodied the earliest and best results of popular judgment—and replaced it by the imperial jurisdiction, the prefects of the city and of the Pretorium, the consuls and the prætors, had jurisdiction in capital offences and matters of lesser gravity which the other magistrates did not take upon themselves to decide.[16] It is clear, therefore, that the president of the province possessed the exclusive and inalienable power of trying capital offences.

In the year 19 Flaccus Pomponius, whose predecessor was Lucius Vitellius, father of the future Emperor Aulus Vitellius, was President of Syria. Pilate was only a procurator or financial comptroller of the imperial administration in Judæa. It constantly occurred that a procurator was sent with the president to the imperial provinces, as the properties belonging to the prince were very numerous and extensive. Hence when a procurator accompanied the president, the former attended only to the interests of the emperor, and this is shown by the fact that he was sometimes called procurator of the patrimony (*procurator patrimonii*) or steward (*magister*) or comptroller (*rationalis*). But in the smaller provincial districts such as Judæa, only a procurator was sent who was under the control of the president or governor, residing elsewhere. The procurator acted as substitute of the governor in all matters, including judicial cases, with the rank and title of vice-president. The Justinian

text contains many references from which it is known that the procurator could not exercise judicial functions, and consequently was unable to pronounce capital sentences, unless holding the recognised rank of vice-president.[17] The ancient commentators of the text agree in firmly laying down this incontestable truth, and Cuiacius, the most authoritative among them, happens to refer in his commentary to the case of Pontius Pilate. "On the procurator of Cæsar," says the learned jurisconsult of the sixteenth century, "is conferred jurisdiction in pecuniary fiscal cases, but not in criminal cases, unless when acting as vice-president—like Pontius Pilate, who was Procurator of Cæsar and Vice-President of Syria."[18]

Thus the sole authority in Judea that could try Jesus, arrest and examine Him, and render Him amenable to the consequences of His alleged offence and of a condemnation, was that of the Procurator and Vice-President, Pontius Pilate, but certainly not Annas nor Caiaphas, nor the whole Sanhedrin nor any other Jewish authority. The common opinion to the contrary—which reduces the Roman authority, represented by the Vice-President, to the mere granting or refusing assent to the execution of capital sentences pronounced by Jewish judges—is opposed to historic truth and the provisions of the law.

Renan, without attempting to prove his assertions, says: "The action which the chief priests had resolved to take against Jesus was fully consonant with the existing law: the procedure against the seducer (*mesith*) who sought to tarnish the purity of religion is explained in the Talmud with details of such an ingeniously impudent character as to provoke a smile. The Roman law did not apply to the Hebrews, who remained under the canon law as recorded in the Talmud."[19]

Salvador says: "The Jews retained the faculty of try-

ing cases according to their own law, but it was only the Roman procurator that had executive power. No culprit could be executed without his assent, in order that the Senate might not have the means of striking at the men who had sold themselves to the foreigner." [20]

But on what rests the truth and reason of this contention? Salvador does not say; and Renan, in stating it, reveals his error, since the Talmud, which he quotes, besides being a confused and uncertain authority regarding the traditional Mosaic law, refers to the hypothesis of its free and full application, and not to the period and limitations of the Roman conquest and domination. On the contrary, the texts that have been appealed to in justification of the opposite theory are clear, unequivocal, irrefutable, and moreover agreeing with the constant logic of the law. Is it admissible in fact that there should be a division of one and the same judicial function between the power of jurisdiction alleged to have been retained by the Jews and the power of execution that was only exercised by the Romans? There could be no juridical reason for such a separation. The judicial power is a close union of justice and force in such a manner that the one cannot be disjoined from the other. In the political order there may be force without justice, but in the juridical order there cannot be justice without force, and in this order knowledge is the sole title to and reason of power.[21] Such justice would be a will without authority, a soul without a body. The principles of Roman law, which were certainly not renounced when Pompey conquered Syria, determined the nature and connection of these two inseparable terms, force and justice, knowledge and power, jurisdiction and dominion.[22]

In Rome the severance of jurisdiction from power was only met with in some treason trials in which the kings,

like the consuls, nominated two extraordinary judges (*duumviri perduellionis*) invested with jurisdiction and not with power, and these trials, as has been ascertained from a careful study of history and legend, were three in number: that of Horatius in the Roman year 81, that of Manlius Capitolinus in 170, and of Rabirius Posthumus in 691.[23] But in those cases the severance happened in the judicial function of one State and not between a dominant and a subject State.

If, therefore, the Sanhedrin of Jerusalem claimed to exercise against Jesus legal criminal procedure involving capital punishment, it usurped the jurisdiction wholly reserved to the Roman president and committed an abuse of power.[24] Hence any judgment it might pronounce was unconstitutional, and could only be considered as null and void. It was, in fact, an arbitrary and violent act. Here some critic may exclaim, "But all this is nothing but a mass of legal rigmarole. What does it matter whether any abuse of power was committed or not, if it were the most efficacious cause in consummating the work of Jesus—a work so profitable to the destinies of humanity? Moreover, was not the real judge of the innocent Man, after all, the interpreter of the Roman law and authority, who washed his hands of the blood of Jesus when he might have protected Him by disapproving the unjust condemnation pronounced by His enemies?"

But this argument shows a fatalism before which neither history nor right—and they are not merely the creations of pedantic lawyers—would have any *raison d'être*. On the contrary, right would be on the side of those fanatics, contemporaries of Tertullian and Irenæus, who offered praise and thanks to Judas, since by his betrayal he had facilitated the sacrifice of the Master. But whoever investigates the circumstances and considers

how deeply the arbitrary judgment of Jerusalem affected the destinies of humanity, cannot avoid meditating upon the singular fact that in human destiny justice should at all periods, and among all people claiming to be civilised, act the shameless and sinister part of opposing every movement towards a higher and more fruitful social regeneration and placing in the hands of unlearned men and conservatives, weapons, which they will use to their own advantage for defending the habits, prejudices, and interests of their class.

The dishonour of Golgotha is the dishonour of justice. And it has been a wise measure to remove the crucifix from almost all the halls of justice among Christian nations, since this sign frequently discredits the work of the judges. The Pharisees who willed the great injustice of the Cross were only blinded by respect for tradition, made powerful by the sole art of hypocrisy. The Sadducees who took precedence in sacerdotal vestments among the illegal judges were conservatives interested in the prestige and fortune of the temple, which was made the central point of the wishes, sacrifices, and expiring forces of a decaying nation. The scribes who took part in the iniquitous work were only pedantic upholders of the intangible law in favour of the cause called national, but which was in reality nothing but the cause of the leading men in the city, who confounded the interest of the nation with that of religion, and both with their own political and social interests. The justice delivered by such judges could only be sectarian because Pharisean, fanatical because sacerdotal, partisan because conservative.

Other judges not dominated by the same sentiments and the same interests would have dealt differently with the inoffensive and harmless bearer of the good tidings, since the latter, though not corresponding to

their expectations, would not have been so much opposed to their desires and objects. The Essenes, the Therapeutæ, the very Herodians, Pilate himself, if left free to himself and free to exercise all his legitimate power, would not have condemned the innocent Man. Pilate declared openly to the people, before degrading his own conscience, his own spontaneous conviction that he found no fault in Jesus. Even Herod Antipater, called upon to exercise a supposed jurisdiction against the Galilean subject, refused to do so, and proclaimed His innocence. But the useful and convenient instrument of judgment is ever limited by direct or indirect control, by normal or usurped jurisdiction in the hands of political power, which is animated in its defence by a factious spirit of opposition to any reform which it regards as a synonym for crime.

If the arbitrary spirit and the injustice to which was immolated the inviolable innovator of Galilee benefited the destinies of humanity, it must mean that even in the year 29 and in the holy city the judicial function and human perfection, as in every period and with every people, progressed inversely among them, seeing that the more beneficial the work of the founder of truth among men was to the destiny of mankind, the greater was the iniquity with which He was treated.

And humanity and justice will always move in this inverse sense so long as the latter remains to the former the clouded mirror of the lean and harsh figures of the powers and interests of the State or of classes, of majorities or factions, of school or cloister, of palace or market-place, and so long also as the ministers of this goddess of obscure and uncertain mythology shall not be raised by force of law and the virtue of custom above party motives as above the spirit of conservatism and so long as they have the inveterate consciousness of

rendering a meritorious service to the country in providing for its defence by the sanction of law, in such fashion that judicial manifestations may always continue to represent the last stage of sedentary repose and never the synchronous movement of the freest and most unrestrained form of human aspiration.

I am not unaware that the justification put forward for punishment is social defence—that is to say, that the guardianship of the prevailing customs and opinions of society relative to the absolute and non-absolute discriminates between the permissible and the non-permissible, the just and the unjust, the useful and the harmful. But every society is changeable—there must be ebb and flow. A fatal law, perhaps the same which inexorably cries "Death" to man, says more benignantly or deceptively to society, "Renew yourself or perish." And, nevertheless, it should be the aim of social defence, applied to facts of a political character, not to confine itself to the contingent and transitory sphere of present customs and opinions, but to raise itself to a higher sphere, more ideal, more constant, capable of comprehending and legitimising vaster and more remote opinions, and, therefore, even the aspirations of one man alone, in opposition to the aspirations of a whole class, which may also represent the will and the strength of a whole nation.

The defence of a society more advanced than the Jewish cannot and should not rest upon the sole fact of a majority in such a way that one must count the number of rebels against a political and social order in order to decide if they are guilty, and should be punished.[25] This is not justice, it is arithmetic; it is not *ars boni et æqui*, but a bad way of governing. A government is just if it follows the will of a majority, it is liberal if it respects all the tendencies of minorities,

but justice is unequal to its ideal task if from the height of a penetration absolute and not relative it does not recognise and tolerate the revelation of even a single tendency, of even a single individual will, be it of the most ardent character, be it, or appear it to be, visionary, such as the great revealing work of Jesus might have appeared to His judges. Social defence may rigorously conform to prevalent customs and opinions in judging and regulating facts other than of the political order, since such a state of opinion is rooted in the reasons, often intuitive, and sometimes absolute, by which the permissible is distinguished from the non-permissible; and it is less subject to change. But the same rigorous criterion of actuality cannot be applied in dealing with political facts, the nature of which, by a necessary law of evolution and progress, must inevitably be subject to change. It is only a society unconscious or incapable of evolution and progress that could provide for its defence by otherwise understanding and administering justice, and preparing by its judicial errors the glory and triumph of its victims. No wound in battle, no sign of martyrdom, no suffering from persecution, will ever add so much to the nobleness and fame of the heroes for whom history claims universal gratitude and imitation as the sacrifice made to justice, even when manifested by the application of existing laws to the heroes sacrificed. The beautiful, immortal, beneficent faith, accustomed to triumphs, and the great and undeniable civilisation superposed upon it for the last nineteen centuries, have no other sign of glory than the vile instrument of the judicial martyrdom on Golgotha.

Israelite society still in the bonds of theocracy, and yet believing in the immutable perfection of an earthly kingdom of God, was convinced that in condemning Jesus it was making a most energetic and victorious

defence, but before long it was destined to witness its complete and irreparable ruin. The very Roman eagles which invested the cross on Golgotha with a sad show of authority were to fall despoiled of their plumage amid the ruins of Israel.

Meanwhile, with the idea of repressing the immortal work of the Nazarene, the heads of Jewish society felt so much the need of a justice representing the interests of their class that, not having the legal power to do as they wished, they arbitrarily assumed it. This is the evident motive of a demonstration which on the other hand would possess even by itself all the importance attributable to the determination of one of the greatest events in history.

Although, therefore, due regard may be paid to the practical consequences of the abuse of power committed by the Sanhedrin through its usurped jurisdiction, it cannot be thought for a moment that the real judge of Jesus was the interpreter of the Roman law who allowed a sentence to pass that he might have still annulled. Had Pilate himself received the proofs and arguments of the charge; had he not found himself confronted by a condemnation referred to him with a false statement of motives—which was not even the statement on which the charge was made, as will be demonstrated—had his conviction of the innocence of the accused been the epilogue of his judgment and had not conflicted with the judgment already pronounced by the Sanhedrin—then he would not have sacrificed the life of the innocent Man and would not have washed his hands of Him. In fact, but for the usurpation by the Jews of the jurisdiction—properly his—in a case involving capital punishment, he might under the exercise of his exclusive authority have had the whole proceedings of the Sanhedrin revised, from the arrest of Jesus to His

condemnation. In that case the arrest would not have been a measure pre-arranged with the deliberate idea of making away with the accused, nor would the whole proceedings have shown the existence of this preconceived idea, which prevented judges from acting either freely or reasonably; the control of the proofs would not have been limited to an attempt which completely failed; the terms of the charges would not have been arbitrarily changed; and the sentence might have been the same as when, without a regular judgment of this kind, the Vice-President fully acknowledged the innocence of the accused.

As regards the arrest made by the band armed with swords and staves, it must be observed that this alone constituted an abuse of power, even had it been possible to substantiate the false and obstinate claim of the Jews to jurisdiction in capital offences, since arrest is an act of power and not of jurisdiction. None of the magistracies that exercise jurisdiction and not power can directly order the arrest of an accused person: this is a measure that can only be taken by authority armed with power.[26]

Hence from every point of view, and for every reason, the judgment wrested from the power of Pilate was nothing but an act of usurpation and vengeance.

NOTES.

[1] 64 B.C.

[2] 4 B.C. Mommsen, *St. Rom.* iii. 133; *Le prov. Rom. da Ces. a Diocl.* cap. xi. p. 499 *et seq.*; Appian, *Syr.* 50.

[3] Hirtius, *B. Alex.* 65: the author calls them *dynastis provinciæ;* O. Bohn, *Qua conditione juris reges socii populi Romani fuerint,* Berlin, 1876; Marquardt, *L'amm. pubbl. rom.* vol. i. p. ii. par. xxv.

[4] It consisted of the districts of Trachonitis, Auranitis, Batanæa, Gauloninis, and Iturea.

[5] Josephus, *Antiq.* xxii. viii. 1, xviii. vii. 1; S. Luke iii. 1, 19; Acts xii. 1 *et seq.*; Noris, *De nummo Herodes Antipæ* in the *Opp.* vol. ii. p. 647: there are coins of Herod Antipater commemorating the forty-third year of his reign; Dion Cassius, *55*, *25*, *27*.

[6] The procurators were Coponius (A.D. 6), Ambirius (about the year 10), Annius Rufus (year 13), Valerius Gratus (year 15–26), Pontius Pilate (year 26–35), Marcellus (year 35), Morillus (year 38–41). Cf. Mommsen, *Le prov. Rom. da Ces. a Diocl.* cap. xi. p. 500; ibid. *Res gestæ Divi Augusti*, p. 124; Josephus, *Antiq.* xvii. xiii. *5*, xviii. i. 1. For the tax levied by Quirinus, *v. supra*, cap. ii. note 15.

[7] Tacitus, *Ann.* ii. 66, vi. 27; Suetonius, *Tiberius*, 42; Lübker, *dexikon v. Pomponii.*

[8] Mommsen, *Abriss des römischen Staatsrechts*, Leipzig, 1893, p. 71; Laurent, *Hist. du droit des gens*, tom. iii.; Fiore, *Tratt. di dir. internaz. pubbl.* i. cap. i.; Cicotti, *La guerra e la pace nel mondo antico*, Turin, Bocca, 1901, cap. v.

[9] Stravius, *Hist. iur. Rom.* cap. i. par. 33; Guidus Pancirolus, *De magistr. municip.* cap. iv. 8, 9, in *Thes. Grævii*, tom. iii.; Forti, *Istituz. civ.* Florence, Vieusseux, 1840, vol. i. cap. iii.; De Ruggiero, *Le colonie dei Romani*, Spoleto, 1897.

[10] Cicero, *In Verr.* ii. 2, 3, 7; Robertelli, *De provinciis Rom.* in *Thes. Grævii*, tom. iii.; Mommsen, *St. Rom.* iii. 133; Forti, *Ist. civ.* i. 3; Marquardt, *l.c.*

[11] Tacitus, *Ann.* Cf. Dupin, *l.c.*

[12] L. 5, Cod. *Ut omnes judices*, i. 49.

[13] L. 3, D. *De officio præsidis*, i. 18.

[14] L. 6, par. 8. Cf. l. 3, D. *De jurisdict.*

[15] L. 10, D. *De officio præsidis*, i. 18.

[16] L. 1, par. 4, D. *De officio præf. urb.* i. 12 L. un pr. D. *De officio præfecti pretorii.* In these judicial precedents, cf. my monograph, *Sistema del processo penale Romano*, cap. v. and vi., in *Archivio giuridico*, vol. xxxvi. fasc. 3–4, Bologna, 1885.

[17] L. 3, Cod. *Ubi causæ fiscales*, etc. iii. 26; L. 4, Cod. *Ad legem Fabiam de plagiariis*, ix. 20; L. 2, Cod. *De pœnis*, ix. 43; L. 1, Cod. *De pedaneis judicibus*, iii. 3.

[18] Cuiacius, *Observationes*, lib. xix. obs. 13. Cf. Gothofredus, *Notis.* leg. 3, Cod. iii. 26; Accursius, *Commentaria*, Ad leg. 4, Cod. *Ad legem Fabianam*, ix. 20; Roberto, lib. i. *Animadv.* 12; Mercatore, *Notat.* 22.

[19] *Vie*, ch. xxiv.

[20] *Histoire des institutions de Moïse*, tom. iv. liv. 4, ch. iii. Moreover, the opinion is commonly, even universally, accepted, because repeated by all—almost by force of inertia. Mommsen mentions, without any reference to Jesus, the common opinion, but it may be perceived from the incidental and fugitive manner in which he alludes to the subject that the great authority in German history has not sufficiently considered the point.

[21] Carmignani, *Teoria delle leggi della sicurezza sociale*, tom. iv. cap. iv.

[22] According to the principle of the Roman law, the judicial fact consisted of five distinct acts: the summons for trial, by which the judge has the power to call before him the person to be tried; the minor coercion, which is the faculty to detain the accused person and others implicated in the case; the cognition, which is the right and the duty of inquiring into the matter of the charges; the judgment or the solution of the controversy; and finally the execution, which is the carrying out of the sentence. Of these five acts the third and fourth (cognition and judgment) are operations of intelligence and knowledge; the others, summons, coercion, and execution—are operations of will and power—the first are justice, the latter force. Cognition and judgment together create jurisdiction, the summons and coercion together create power (l. 21, D. iii. 5; l. 1, par. 1, D. xvi. 2; l. 1, par. 3; 1, 51, D. xxvi. 7; l. 5, D. xlii. 1; l. 7, D. xlviii. 11; l. 99, 131, par. ult. D.L. 16; l. 26, C. ix. 9). It was *merum imperium* with the appended *jus gladii* as applied in the prosecution of criminals, *imperium merum et mixtum* which also comprised civil cases (cf. Averani, *Interpret. jur.* lib. i. cap. iii. n. 6, 10). The simpler and more pacific principle now prevailing in the judicial function of a State is that there can be no jurisdiction without power nor power without jurisdiction. The relation of these two inseparable terms may, however, sometimes be established in diverse proportions, and in that case the difference between the authorities becomes manifest, but is still

confined to one and the same State, in which the judicial function therefore is neither mutilated nor destroyed, but is harmonised and rendered compendious. This, however, is not possible between a preponderant State and a dominated State, since the judicial function of one and the other would then become imperfect and divided. It occurs at the present day, for instance, with ourselves—for example, that the supreme Courts of Cassation exercise jurisdiction, but not power, so that the necessary execution of their sentences is not in their province. But this magistracy is grafted on the stem of one and the same judicial ordinance and bound by close and immediate connection with the other magistracies, which are furnished with power in one and the same State. Moreover, the exercise of power in regard to their sentences is restricted to a simple executive and not revising function, which would be the character of the function which it is maintained should be attributed to the Roman presidents in regard to the sentences of the Jewish tribunals. Our Courts of Cassation are above the tribunals to whom they send their sentences for execution, but these should be always and faithfully carried out without any other intervention than that of coercive action.

[23] Livy i. 26, vi. 20; Dionysius, iii. 21; Festus, *Sororium sigillum*; Cicero, *Pro Rabirio*; Dion Cassius, xxxviii. 27. Cf. my monograph quoted, cap. iii.

[24] In the first case the judgment is illegal and null, but is nevertheless regarded as having been delivered by a recognised although incompetent judge, because *prætor quoque jus reddere dicitur etiam cum inique decernit.* In the second case the judgment is unconstitutional and arbitrary, and is regarded as a fact *a non judice*, because he who delivered it *nequiter utitur permissa sibi potestate* (l. 11, D. par. 1, *De justitia et jure*). In the Sanhedrin at Jerusalem no recognition could be given to the *jus reddere* as regarded Jesus, *etiam cum inique decernit.* He was denied every *permissa sibi potestas*, and his condemnation must be regarded as having been pronounced *a non judice.*

[25] Cf. my book, *Del domicilio coatto e dei delinquenti recidivi*, Florence, Bocca, 1900, cap. v. pp. 78-88, in which political offences are discussed.

[26] Varro *apud* Gellium, *Noct. att.* lib. xiii. c. xii. Cf. Carmignani, *Teoria delle leggi*, etc., lib. iv. chap. iv. p. 44 in note. For the material of this chapter two works may be referred to which have not been consulted by the author—Lémann, *Valeur de l'assemblée qui prononça la peine de mort contre J.-C.* Paris, 1876; Innes, *The Trial of J. C.: A legal monograph*, Edinburgh, 1899.

CHAPTER XI

The Convening of the Sanhedrin—The Hour of the Meeting—Prohibition of the Mosaic Law against Procedure in Capital Cases at Night—Divergence in the Synoptic Gospels—The Exegetic Observations of D. F. Strauss—The Gospel Narrative of the Trial of Jesus before the Sanhedrin—It is concluded from it that all the Proceedings before the Sanhedrin in this Matter were Nocturnal—Significance of this Irregularity in View of the Rigorous Observance of Legal Forms by the Hebrews—How the Trial terminated with another Irregularity, inasmuch at the Sentence could not Legally be pronounced on the Same Day as that on which the Trial closed.

THE Sanhedrin has assembled, and Jesus is brought before it. But the proceedings open with a manifest irregularity—the members, in their haste to condemn, meet at night-time, a proceeding openly violating the Mosaic law which prohibits capital cases being tried at night.[1] As regards the hour of meeting, evident but reconcilable divergencies are observable in the Synoptic Gospels, and Strauss, whose work is based upon a continuous and inexorable exegesis of the Gospel texts, has rigorously noted these discrepancies. "According to the two first Gospels" observes this author, "when Jesus was brought to the palace of the high priest the doctors of the law and the elders were already assembled and tried Jesus at once during the night-time. The witnesses were first heard, after which the high priest put the decisive question to the Accused, whose reply made the assembly to declare Him to be worthy of death. In the

fourth Gospel the examination of Jesus also takes place by night, but nothing is said in presence of the Grand Council. According to the narrative in the third Gospel, Jesus was only detained temporarily in the palace of the high priest during the night and was maltreated there by the servants. At break of day the Sanhedrin assembled, and then without first hearing witnesses the high priest hastened to put to the Accused the question already mentioned." Now it appears unlikely that the members of the Grand Council should have suddenly met during the night to receive Jesus, while Judas with the guard had gone to apprehend Him, and for this reason preference is given to the narrative in the third Gospel which relates that the Council assembled at the break of day. But S. Luke does not derive any advantage on this account when he says (as he alone does among the Evangelists [2]) that the chief priests and elders and captains of the temple were present at the arrest of Jesus in the Garden of Gethsemane, while according to the other accounts their zeal led them to hold a sudden sitting and take a prompt resolution. In S. Matthew, however, as in S. Mark, a singular fact is to be noted. It is that, after relating the examination and the decision taken, the two Evangelists add that early in the morning the chief priests with the elders and scribes and the whole council held a consultation. It would appear from this, therefore, that the Sanhedrin held a second meeting in the morning because it had first met during the night, and that it was only at the morning sitting that a definitive resolution was taken against Jesus.[3] Certainly the detail mentioned by S. Matthew and S. Mark is curious, but the question can only be solved by confirming the statement made by these two Evangelists themselves—namely, that the sentence on Jesus was pronounced at night-time.

S. Mark, after having stated that the meeting of the Sanhedrin and the sentence occurred before cockcrow, mentions a fresh meeting: "And straightway in the morning the chief priests, with the elders and scribes and the whole council, held a consultation and bound Jesus and carried Him away and delivered Him up to Pilate." [4] Now it is clear to any one who studies the language of the text that at this stage there was no question whatever of the charges against Jesus, which the Evangelist, moreover, relates had been already formally stated, so that the chief priests and others merely met for the second time in order to confer before sending the condemned prisoner before the Roman procurator. The motive of this conference cannot appear inexplicable, when it is remembered that the council had to find out the best means of inducing the procurator to deal with the charge that was within his sole jurisdiction, and that in any case had to be presented to him as just and well founded. S. Matthew, after closing his narrative, which occupies the time between S. Peter's first denial and the crowing of the cock, continues:

"Now, when morning was come, all the chief priests and elders of the people took counsel against Jesus to put Him to death, and they bound Him, and led Him away and delivered Him up to Pilate, the Governor." [5]

In this second meeting, therefore, the council discussed the means of compassing the death of Jesus, and handing Him over to the Governor—that is to say, to put into execution the sentence supposed to have been already passed during the night.[6] There was no question then of discussing or defining the charges against Jesus, since that had already been done. S. John repeats the same particulars and concludes: "Peter denied again, and straightway the cock crew. They led Jesus from Caiaphas into the palace, and it

was early."[7] It therefore appears permissible to conclude that the transfer of Jesus to the Pretorium was effected in the morning, but that the condemnation by the Sanhedrin was pronounced at night.

S. Luke alone among the Evangelists affords any ground for a contrary opinion. But in the first place, the divergence of one testimony against three others concerning the same fact would not be a sufficient reason for preferring it to the unanimous attestation of the three.

Considered, however, with discretion, the divergence does not seem to me to present an insuperable difficulty, as it has appeared to do to the orthodox interpreters. Meanwhile S. Luke agrees with the other Evangelists in stating that the arrest of the Master and His being immediately brought to the high priest's house occurred in the evening.[8] His narrative is also concordant with theirs in stating that Jesus remained in the high priest's house all night, and that the denials of S. Peter also occurred during the night in the same place. This episode is mentioned particularly and with some descriptive colour by S. Luke, who says that while S. Peter was standing beside the glowing brazier warming himself, the woman who recognised him as one of the followers of Jesus looked at him steadfastly by the light of the flames from the brazier—which means that it was dark at the time. It is true that the Evangelist, while dwelling on these matters, only mentions the meeting of the Sanhedrin in premising that it was then already day, but if it be considered how brief and hurried is the mention that he makes of that meeting, it may be admitted without difficulty that it could only have been the second meeting which, according to the other Evangelists, was held after the condemnation, and that the first meeting was not noticed by S. Luke, as he thought it sufficient to record

the fact of Jesus having been sentenced to death in mentioning the second conference of the Sanhedrin. In fact, while the other Evangelists refer to two meetings, S. Luke only speaks of one, so that he must certainly have omitted to mention one of them. Therefore, unless we are prepared to set aside the explicit testimony of three witnesses, notwithstanding the evident omission made by a fourth, the affirmation that the trial of Jesus was held at night in violation of the express prohibition of the Mosaic law must be fully maintained.

S. Luke says textually: "And as soon as it was day, the assembly of the people was gathered together, both chief priests and scribes; and they led Him away into their council, saying, If Thou art the Christ tell us. But He said unto them, If I tell you, ye will not believe: and if I ask you, ye will not answer. But from henceforth shall the Son of Man be seated at the right hand of the power of God. And they all said, Art Thou the Son of God? And He said unto them, Ye say that I am. And they said, What further need have we of witness? for ourselves have heard from His own mouth. And the whole company of them rose up and brought Him before Pilate." [9]

It is evident, in the first place, that the transfer from the Sanhedrin to the Pretorium was immediate, and that there is no ground therefore for supposing that a third meeting of the Sanhedrin may have been held. Hence it follows that the audience of which S. Luke omitted to make mention was the first meeting, the one at which Jesus was condemned, and not the subsequent consultation for the purpose of delivering Him over to Pilate. It is moreover equally evident that it is not recorded in S. Luke's account that the Sanhedrin on this occasion pronounced any condemnation—they met simply to refer the case to Pilate. The particulars

narrated by S. Luke of the words then spoken by Jesus and the replies given by members of the council are not mentioned by the other Evangelists, and are simply a necessary addition made by S. Luke.

But this is not sufficient. Here, in S. Luke's account, it is not Caiaphas who interrogates, whereas according to the narration of the other Evangelists concerning the first meeting of the council the examiner was the high priest—as it should have been. We find from S. Luke that all of those present at the second meeting asked questions of Jesus on their own account, as, later on, the same men mocked at Jesus on the cross, saying, "He saved others; Himself He cannot save. Let the Christ, the King of Israel, now come down from the cross that we may see and believe." [10]

Yet, again, S. Luke, neither in his account above quoted, nor elsewhere in his Gospel, makes mention of the two false witnesses who were also examined. He simply says, always in the way of epilogue, that those present asked what need was there of further witnesses, which is worth remembering, showing as it does that even according to S. Luke some witnesses must have been heard by the Sanhedrin. It is further to be observed that S. Luke mentions nothing of the adjuration addressed by the high priest to Jesus at His examination before the Sanhedrin, nor the scene of the high priest rending his garments, of which concordant narrations are given by the other three Evangelists in mentioning the trial.

Here is the full account from the moment of the arrest of Jesus and the meeting of the Sanhedrin: "And they seized Him and led Him away, and brought Him unto the high priest's house. But Peter followed afar off. And when they had kindled a fire in the midst of the court, and had sat down together, Peter sat in

the midst of them. And a certain maid seeing him as he sat in the light of the fire, and looking steadfastly upon him, said, This man also was with Him. But he denied, saying, Woman, I know Him not. And after a little while another saw him and said, Thou also art one of them. But Peter said, Man, I am not. And after the space of about one hour another confidently affirmed, Of a truth this man also was with Him, for he is a Galilean. But Peter said, Man, I know not what thou sayest. And immediately, while he yet spoke, the cock crew. And the Lord turned and looked upon Peter, and Peter remembered the word of the Lord, how that He had said unto him, Before the cock crow this day thou shalt deny Me thrice. And he went out and wept bitterly. And the men that held Jesus mocked Him and beat Him. And they blindfolded Him and asked Him, saying, Prophesy, who is he that struck Thee? And many other things spake they against Him, reviling Him. And as soon as it was day the assembly of the elders of the people was gathered together, both chief priests, and scribes, and they led Him away into their council, saying, If Thou art the Christ, tell us." [11]

We see from the above that S. Luke adds to the account of the meeting of the Sanhedrin. He does not omit to mention the blows and other affronts suffered by Jesus, but says nothing whatever of the procedure, nor of the questions of Caiaphas, nor of his own impressions regarding the action of the Jews in suddenly bringing a trumped-up charge against Jesus. Neither does he say a word concerning the false witnesses, nor of the pronouncement of condemnation; all this is compressed into a single meagre reference dealing with the second and first meetings of the Sanhedrin, the latter being held in the prohibited hours of the night.

It is fitting that we should have dwelt upon this irregularity of form, which would be of very small importance in itself were we not dealing with the judges of Jerusalem, rigorists and superstitious to excess in their pedantic deference towards every minutiæ of form imposed by the law, and all the more ready therefore to compound for the violation of one of its most explicit and severe provisions when, in exercising justice, they desired to confound the rancour of private vengeance with devotion to the national glory. To equitable and merciful judges all may be forgiven: to judges of bad faith, nothing. In the case of the latter, the inobservance of form is not, as with the former, a matter of extrinsic error not prejudicially affecting the judgment to be delivered, which under whatever form would always be the same, since the judges pronouncing it would be guided by the sure rule of conscience; it is violence which overthrows and tramples upon the obstacles expressly raised against arbitrary procedure. The judges of Jesus illegally hastened His condemnation in order that there might not be a demonstration of popular feeling in His favour, but this motive is a revelation of the arbitrary, factious, and unpopular sentence predetermined by these judges. Otherwise they would not have feared and prevented, but would willingly have welcomed and deferred to a spontaneous public manifestation, whether favouring or opposing their own ideas on the question of the trial. A few hours later these same judges showed that they did not disdain popular manifestations regarding their judicial proceedings when, in the Pretorium, they incited the people against Jesus. And then what an excellent counsellor is Time! How much may not be rectified in the space even of one short hour! How many phantoms treated as realities in the darkness of night are not dissolved by the first rays of

the sun! How many decisions are not recognised as unjust when there has been time for self-examination! How many opinions that once appeared infallible and eternal do not fall at the unforeseen and unexpected shock of other views!

But as the trial commenced with one irregularity, so it was destined to end with another.

The Mosaic law not only prohibited capital sentences being pronounced at night, but forbade with the same rigour and for the same reason that sentence should be pronounced on the same day as that on which the trial began.[12] The judges of the Sanhedrin openly violated this prohibition, and thus again made manifest how false and mendacious was their ostentatious profession of obedience to the law, wherein they showed themselves to be intolerant and inexorable in denouncing illegal but not immoral acts. It is true that the day following was Easter, and that the proceedings could not therefore have continued, but they might have been suspended, instead of violating a rule of justice which prohibited sentence being passed on the same day as the trial, in order to respect a merely superstitious observance—that of the sanctification of Easter.

But it was decided that Jesus should be dealt with summarily, and this obstinate and cruel resolve was the sole law that guided the most formal judges in history.

Now let us enter the nocturnal sitting of the Sanhedrin, and so far as the darkness of night and of the nineteen centuries that have since rolled by may permit, let us see how that assembly was constituted.

Notes

[1] *Sanhedrin*, 32. In pecuniary cases the trial begins during the daytime and may finish at night. In capital cases the trial must commence and end in the course of the day (*Mishna*, n. 7). Cf. I. J. M. Rabbinowicz, *Législation criminelle du Talmud*, Paris, 1876, p. 79.

[2] xxvi. 52.

[3] *Vie*, tom. ii. ch. iii. par. 125.

[4] xv. 1.

[5] S. Luke xxvii. 1, 2.

[6] The idea of Strauss (*l.c.*), although only expressed as an hypothesis, is not excluded. Strauss says: "Unless it is meant to affirm that to the death sentence already pronounced was joined, on the following morning, the decision to hand over Jesus to Pilate—or in other words that the Sanhedrin, having already pronounced sentence of death, deliberated upon the means of executing it."

[7] xviii. 27, 28.

[8] xxii. 54.

[9] xxii. 66-71, xxiii. 1.

[10] S. Matthew xxvii. 41, 42; S. Mark xv. 31.

[11] S. Luke xxii. 54-66.

[12] *Sanhedrin*, 32. "In pecuniary cases a trial may end the same day as it began. In capital cases acquittal may be pronounced the same day, but the pronouncing of sentence of death must be deferred until the following day in the hope that some argument may meanwhile be discovered in favor of the accused" (*Mishna*, n. 8).

CHAPTER XII

The Constitution of the Sanhedrin—Historical Lacunes and Conjectures—The Biblical Judges—The King and the Elders and Judges—The Institutions of David and Jehoshaphat—Mention in Deuteronomy of a Supreme Magistracy at Jerusalem—Necessity of consulting the Talmud for determining the Hebraic Judicial Organisation—Tribunals of Three Grades—The Capital Jurisdiction of the Grand Sanhedrin and its Particular Attributions—The *Nasi*, the Scribes, the *Shoterim*—Suppression of the Greater Privileges of the Sanhedrin in the Time of Jesus.

THERE are no historical data affording the means of reconstructing the judicial organisation of the Hebrews at the time of these events.

The legislator of Deuteronomy lays down the obligation of instituting judges and executors of the law in every city, and recommends them to administer justice without respect for persons,[1] but gives no directions concerning the manner of instituting and regulating the order and functions of judges. Evidently Deuteronomy must refer to some already existing institutions, based on custom and tradition, which it was thought unnecessary to mention. If the inquiry is extended to all the laws of Scripture, it may be inferred that at a period when all supreme power was exercised by the heads of tribes, who bore the biblical title of judges, all judicial power resided in them. But this is only an induction, not a statement of fact. And rather less is any conclusion to be arrived at upon the hypothesis that

under the government of the Kings the latter were the judges of the Hebrew people. Certain facts in the life of David, the celebrated judgment of King Solomon, the request made by the people to Samuel that they might have a king to judge them, and the appeal made by a widow to King Jehoram for justice would seem to furnish safe historical data in support of such an hypothesis.[2] But the fact that Jezebel in order to get rid of Naboth was obliged to have recourse to the authority of the elders in order to obtain pronouncement of an unjust sentence, would rather justify the supposition that the judges depended upon a council of elders,[3] and if the biblical chronicler is to be believed, King David himself chose from among the Levites six thousand officers of justice, while King Jehoshaphat instituted judges in all the cities of Judæa and a sort of supreme tribunal at Jerusalem.[4]

The compiler of Deuteronomy, who, like all Levitical legislators, does not follow a logical order but frequently introduces among ordinances of the law, exhortations in the nature of recommendations, or simply passages of narrative, makes at one point, and this comes somewhat in the nature of a surprise, the statement that at Jerusalem there had arisen a supreme judicial power to which all the tribunals of the other cities were required to refer any civil and criminal cases which they were incompetent to deal with.[5] The compiler does not, however, define this question of capacity, nor say what was the constitution of the supreme judicial power.

In view of the silence and uncertainty of biblical texts, the only course to follow is to admit, with the doctors of the Talmud, that side by side with the written law there existed a traditional law founded upon custom to which many Mosaic regulations referred. The Talmudists have maintained that a traditional law

subsisted from the most ancient times, and that this has been collated in their compilations. Some learned inquirers contest the correctness of this affirmation, but the divergence ceases at a certain point, since it is admitted by the learned that the Talmudic compilations do present the Mosaic law such as it had become in the last days of the Jewish State;[6] and it was just at the beginning of that period that the events of which we treat occurred.

Now, according to the Talmud, the tribunals were of three grades: The first was the Great Sanhedrin, which was a senate of elders residing in Jerusalem and consisting of 71 magistrates. It exercised the highest authority, and was assisted, or rather replaced in cases of small importance, by two other Sanhedrins, each consisting of 23 judges. A second order of tribunals was that of the Minor Sanhedrins, distinct from the coadjutors, also composed of 23 judges, instituted in populous towns containing at least 120 adult male inhabitants. The third order was that of the lower tribunals, formed by three judges each.[7]

The Sanhedrins were composed of priests and laymen, but might also consist of laymen alone. To be elected to them it was necessary to be of good birth, to have a physical appearance inspiring reverence, to have children, and not to be of too advanced age. Blind men, eunuchs, fowlers, dice-players, and those who in the Sabbatic year had traded in merchandise[8] were not eligible. Attached to nearly every Sanhedrin were students divided into three classes and rising gradually to higher grades. They acquired judicial practice and applied themselves to the study of law and procedure. The magistracy of the Great Sanhedrin had the power of promoting members to its own body and to the two lesser Sanhedrins by seniority and by merit, and these

promotions were made by the rite of the imposition of hands. The Great Sanhedrin also exercised a control over the organisation and functions of the other Sanhedrins.[9]

The Great Sanhedrin was directed by a president (*nasi*) and a vice-president (*ab beth din*). The minor Sanhedrins from time to time nominated as their president the judge whom they deemed most worthy. Two scribes, doctors of the law, were present at each sitting and compiled the minutes of the proceedings.[10] No form of defence was permitted, and this can be easily imagined seeing that the religious despotism which was bound up with the Jewish theocracy was founded on belief in the direct action of God in all human affairs. The magistrate who judged in the name and in the place of God desired obedience, and did not suffer discussion.[11] Hence there were no advocates, there was no verbal eloquence except that of the prophets, who were the sole orators in Hebrew life, but who were never allowed to appear as patrons of accused persons. Indeed, they were themselves not unfrequently in the position of defendants. The execution of sentences, and probably all the police work of legal procedure, was entrusted to officers of justice called *shoterim*.[12] The men who arrested Jesus were perhaps, at least in part, *shoterim* of the Sanhedrin. The jurisdiction of this magistracy was concerned before any other duty with the election of the king,[13] in which, however, it sometimes failed, as we read in the first book of Samuel that the people, dissatisfied with the administration of the sons of that prophet, demanded a king, which is as much as to say that for some time a king had been wanting. And in such periods of interregnum or vacancy the whole government was centred in the Sanhedrin. It was therefore within its competency to declare war, to enlarge the city of Jerusalem and the

courts of the temple, to submit women suspected of adultery to the miraculous water test, to sentence to extermination a tribe or city guilty of becoming converts to another religion, to impeach the high priest or a rebellious judge, and finally to sentence a false prophet to death.[14]

Jesus, the prophet of truth, fell under this last-named head of the competency of the Sanhedrin, but it must be remembered that this supreme and unconditional authority had been abolished by the fact of the Roman conquest and had been transferred to the conquering State.

In the same manner and for the same cause the Sanhedrin had lost all competency in the election of a king, and in fact Herod the Great, was only nominated king in consequence of his humble solicitations to Anthony and Octavian at Rome. Archelaus, who was the last King of Judæa, added to Samaria and Idumea, was not otherwise nominated on his father's death, while his brothers Philip and Herod Antipater were in like manner nominees of Rome. When Archelaus was superseded by Publius Sulpicius Quirinus, to whom was committed, as first Governor of Syria, the institution of the new province, the Great Sanhedrin might as a consolation recall its ancient privilege of electing the kings, but this did not confer upon it the faculty of nominating one, and this serves to prove once more how greatly the new dominion had cut down the chief prerogatives of the Jewish authority. After the arrival of the Roman eagles, the supreme magistracy of Jerusalem might have immersed the woman suspected of adultery in all the miraculous water the Jordan contained, it might have enlarged the holy city and the Pharisean synagogue, it might have launched anathemas of extermination against a converted city, or it

might have condemned the blasphemies of a false prophet and have denounced him to the Roman Governor as a possible disturber of public order. But with all this it could not hurt a hair of the head of the woman suspected of adultery, even if found guilty by the water test, nor could an impious city have been made to suffer so much as one hour of hunger, nor could even one stone have been cast at the false prophet. The definition and punishment of capital offences had passed to the Roman power, sole possessor of the *jus gladii*, on which was based the power over life and death.

Notes

[1] Deuteronomy xvi. 18-20.

[2] 1 Samuel vii. 15-17, viii. 5; 2 Samuel xiv. 1-11, xv. 1, 6; 1 Kings iii. 16-28; 2 Kings vi. 26-31.

[3] 1 Kings 1-13.

[4] 1 Chronicles xxiii. 6; 2 Chronicles xix. 5-11. Cf. Castelli, *La legge del pop. ebr.* cap. viii.

[5] Deuteronomy xvii. 8-12.

[6] Cf. Castelli, *l.c.*

[7] *Sanhedrin*, i. par. 6, x. par. 2, and 88*b*, iii. par. 1. Cf. Mommsen, *Le prov. Rom.* cap. xi. pp. 479, 503.

[8] *Sifré*, ii. par. 153; *Sanhedrin*, f. 17*a*, 24*b*, *et seq.*, 27 *et seq.*, 36*b*.

[9] *Sanhedrin*, 13*b*, 88*b*.

[10] *Haghighà*, 16; *Sanhedrin*, iii. par. 1; *Sifré*, f. 36*b*; Maimonides, *De Synedriis*, i. 3.

[11] *V. s.* cap. i. Cf. Pierantoni, *Gli avvocati di Roma antica*, Bologna, Zanichelli, 1900, cap. i. par. 3.

[12] Saalschütz, *Das mosaische Recht*, p. 58; Deuteronomy xx. 5-9.

[13] *Sanhedrin*, i. 1.

[14] Maimonides, *De Synedriis*, v. The competency of the Sanhedrim of the second order in capital cases was restricted to

charges of conversion to other religions against tribes or cities, and to charges against high priests, rebellious judges, and false prophets. The minor tribunals dealt with all civil cases and such penal matters as involved no other punishment than fining or flogging. The constitution of these tribunals was exceptionally modified when they had to demand the expiatory sacrifice imposed by the law upon the inhabitants of any city nearest to the place where the dead body had been found of a man who had been killed, and had lain undiscovered; and when they had to decide whether the thirteenth month should be intercalated in order to restore the coincidence of the lunar with the solar year. In the first case the minor tribunals had to be composed of five judges, and in the second of seven (Maimonides, *De Synedriis*, v; *Sanhedrin*, i. 1).

CHAPTER XIII

The Minutes of the Audience of the Sanhedrin—The Pagan Sources upon the Life and Trial of Jesus—Critical Conclusions regarding the Form and Contents of the Gospels—The Gospel Texts upon the Trial before the Sanhedrin—The Two Charges brought against Jesus: Sedition and Blasphemy—How the Sanhedrin proceeded by Elimination, abandoning the First Charge in Default of Proof and taking the Second from the Confession of the Accused—Why the Confession did not dispense the Judges from examining Witnesses—Why the Confession would not in Itself constitute an Indictable Offence.

THE two scribes who acted as clerks of the court at the sitting of the Sanhedrin on Nisan 14 have not left us the minutes of this nocturnal meeting. For information concerning it we must therefore have recourse to other sources.

Those of Pagan origin are arid and dry in the extreme, as is the case in every other period of the life of Jesus. Josephus Flavius, the writer of antiquity who lived nearest to His time, only dedicates to Him a brief mention: "At that time lived Jesus, a wise man—if He should be called man. He did marvellous things and was the master of those men who received the truth with joy. He moreover brought over many Jews to His side, as also many foreigners of the Greek countries. This was the Christ. When on the accusation of the most influential men among us Pilate sentenced Him to death on the cross, His followers nevertheless

did not forsake Him. He appeared among them on the third day because divine prophecies had foretold of Him this and many other miracles. Up to the present the Christian sect, so-called after Him, has not ceased to exist." [1] The passage which has already been quoted from Eusebius [2] was for some time regarded as having been interpolated in the text of that author by another hand, but there is now more disposition to treat it as authentic.[3] The passage in Tacitus which caused surprise and emotion to the reader of the *Annals*, but was looked upon with suspicion, is now also declared to be perfectly authentic.[4] It only amounts, however, to attesting the existence of Christ, now incontestably established. "In order to quiet the report (caused by the great fire in Rome) Nero accused and punished with the most refined tortures those who with perverse obstinacy called themselves Christians. The author of this name was Christ, who under the reign of Tiberius was executed by the Procurator Pontius Pilate." [5] Suetonius, Pliny the Younger, Lucian, and Epictetus incidentally mention, besides the personality of Christ, the religious motive of the Christians.[6]

Only the Gospel sources therefore remain to us. The most cautious criticism that has been applied to the Gospel record has rather denied the existence of Christianity in its primitive form in present practice than its intrinsic truth. The greatest critics hold that the work of the Evangelists induces the supposition of a certain development of oral tradition created during the apostolic age in the primitive movement of Christian life, and that this oral tradition was bound to be succeeded by a written tradition which would be preserved in the texts attributed to the Apostles, or in other anterior texts on which the former would have been elaborated. Some hold that the most ancient portion of the canon of the New Testa-

ment consists of the Epistle of S. Paul and the Apocalypse, where in truth the references to the life and person of Jesus are few and not very precise. Others maintain the contrary, while the majority believe that the Acts of the Apostles can only have been written by S. Luke, author of the third Gospel. Certainly in the texts of the four Evangelists, even in that of S. Luke, allusion is made to "many who have taken in hand to draw up a narrative concerning those things which have been fulfilled among us" and to those "which from the beginning were eye-witnesses and ministers of the word."[7] But setting aside questions of detail in this matter, on which no two critics are ever found in agreement, it is useful to take note of the criticism which maintains that the Acts of the Apostles were written before the Gospels: a profound difference, observes this critic, separates the one from the other. The luminous and creative words of the Master lose much of their vivid force in the mouths of His successors. The discourses of S. Peter, S. Stephen, and S. Philip do not possess that lofty idealism, that great vitality, that fine imagery, that profound impress of eternity, which mark the words of Jesus. Hence if the Gospels really come from the apostolic age or the period following it, we must believe that the most living and spiritual portion of their contents flowed from the primal source, and is therefore a faithful testimony and sincere echo of the original word of the Master.[8] This is the conclusion of some critics, but it is nevertheless a surrender. In this way the terms of the chronology become inverted, and subsequent events become antecedent. The Gospels which lead some critics to regard the Acts of the Apostles as antecedent contain something incomparably more living and real than is to be found in the latter. And if this be so, it matters little that the form in which we

now know the Gospels may not have been the original form, which few orthodox critics now attribute to the Evangelists themselves, since it is felt that the best part of the work of the Gospel flows from the primal source and is a faithful testimony and sincere echo of the original word of Jesus. In another matter—that of the vexed question of the period at which the four Gospels appeared after the death of Jesus—the latest critics agree in shortening this period to a notable extent, and now assign S. Mark's Gospel to between 65 and 70 in the first century, S. Matthew's to between 70 and 75, S. Luke's to between 78 and 93, and S. John's to between 80 and 110.[9]

Hence the acts of the life and the record of the trial of Jesus can be read as in one sole faithful text in the Gospels.

Let us read it at the point which our argument has now reached:

"Now the chief priests and the whole council sought false witness against Jesus, that they might put him to death; and they found it not, though many false witnesses came. But afterward came two and said, This man said, I am able to destroy the temple of God, and to build it in three days; and the high priest stood up and said unto Him, Answerest Thou nothing? What is it which these witness against Thee? But Jesus held His peace. And the high priest said unto Him, I adjure Thee by the living God that Thou tell us whether Thou be the Christ, the Son of God. Jesus saith unto him, Thou hast said: nevertheless, I say unto you, Henceforth ye shall see the Son of Man sitting at the right hand of power, and coming on the clouds of heaven. Then the high priest rent his garments, saying, He hath spoken blasphemy. What further need have we of witnesses? Behold, now ye have heard the blasphemy,

what think ye? They answered, and said, He is worthy of death." [10]

Thus S. Matthew.

The narrative of S. Mark shows no divergence, and summarises briefly the capital trial, the charges, proceedings, and sentence. S. Mark does little more than explain to us how the false witnesses either failed to prove anything or were contradicted by others, and the explanation is that the witnesses gave entirely discordant testimony, whereas two of them at least should have been in agreement to legitimise a condemnation.

"Now the chief priests and the whole council sought witness against Jesus to put Him to death; and found it not. For many bare false witness against Him, and their witness agreed not together. And there stood up certain and bare false witness against Him, saying, We heard Him say, I will destroy this temple that is made with hands, and in three days I will build another made without hands. And not even so did their witness agree together. And the high priest stood up in the midst, and asked Jesus, saying, Answerest Thou nothing? What is it which these witness against Thee? But He held His peace, and answered nothing. Again the high priest asked Him and saith unto Him, Art thou Christ, the Son of the Blessed? And Jesus said, I am, and ye shall see the Son of Man sitting at the right hand of power and coming with the clouds of heaven. And the high priest rent his clothes, and saith, What further need have we of witnesses? Ye have heard the blasphemy: what think ye? And they all condemned Him to be worthy of death." [11]

Thus S. Mark.

S. Luke and S. John cannot be used for purposes of comparison, since they omit any narrative of the trial, and simply mention it in the way of epilogue at the

point where the Sanhedrin meets again in order to take measures for the execution of the sentence; and I do not understand how this omission should not have been understood for what it is by Strauss, who sharpens his exegetic criticism in order to confine himself to the demonstration that it is a lacune in the narratives of S. Luke and S. John to have said nothing of what happened in regard to the false witnesses, since it is quite likely that Jesus had spoken of the destruction and rebuilding of the temple with S. Mark and S. Matthew, and it was therefore very natural that such an utterance should have constituted a charge against Him before the tribunal.[12] Schleiermacher explains the omission in S. Luke by saying that the compiler of that Gospel followed Jesus from the Garden of Gethsemane, but was refused admission to the palace of the high priest, together with the greater part of the other disciples, and could not therefore narrate what occurred in the palace.[13] But the explanation is a lame one, since it does not suffice to justify the Gospel of S. John, in which the same omission occurs; and yet S. John, admitted into the house of Caiaphas, followed Jesus all through the judicial proceedings and up to the moment of His death. I have already mentioned it, but think it well to repeat that S. John describes the arrest of Jesus and the summary examination to which He was subjected by the high priest independently of the meeting of the Sanhedrin; and that at that moment the servants and officers of the high priest were gathered round the fire in the courtyard to warm themselves, as it was cold.[14] But of all that formed the material of a mock trial, S. John does not say one word, since from the last word mentioned concerning the denial of Peter (which no doubt occurred before the meeting of the Sanhedrin), he passes to the last word there was to say concerning the trial

and condemnation, only referring to the transfer of Jesus from Caiaphas to Pilate. "But Peter denied again for the third time, and the cock crew. Jesus was then taken from the house of Caiaphas to the Pretorium. And it was morning." [15]

Hence the account of the proceedings before the Sanhedrin that night is only given by S. Mark and S. Matthew.

This Gospel account attests that the charges were two in number, one sedition, the other blasphemy. In the first place it was sought to prove by false and inconclusive testimony that Jesus desired the destruction of the temple, and up to this point the charge is one of sedition. Afterwards, when proof of this charge was seen to be impossible, owing to the disagreement between the statements of the witnesses, the judges changed their plan of attack and snatched from the mouth of the Accused the declaration that He was Christ, the Son of God. Then the charge became one of blasphemy.

It may be objected that in view of a penal law of theistic basis the difference is not appreciable, since whoever blasphemed the national monotheism undermined the theocratic order. But here the difference is not in name, but in fact. It is one thing to charge an accused person with having used subversive expressions that he may or may not have uttered, and another to charge him with being what he may or may not be, independently of the fact whether he had or had not made any affirmation of the kind. The difference consists in the first place in the material charge made in the matter of the indictment, and then in a separate and almost contrary direction given to the examination in pressing the charge. So long as false and discordant testimony was brought forward in support of the charge that the Accused had declared that He could destroy the temple and rebuild

it in three days, the task of the prosecution was to distinguish the false from the true in the testimony of the witnesses, and to decide whether the Accused had or had not uttered those words. When, therefore, the Accused, replying to a simple question, admits being the person charged, the prosecution begins a series of inquiries, of confrontations, and arguments, the object of which should have been to lead to a judgment establishing without bias or precipitancy whether the Accused was really what He declared Himself to be. The first charge contains in itself a question of proof, the second of appreciation. Before the first the Accused may remain silent, but the burden of proof rests entirely upon the judge; nevertheless, the Accused may meet the second charge by confession, but this is the admission of a fact and not of a crime which has to be inquired into and defined by the judge.

Instead of this the president of the Sanhedrin shifts suddenly from one charge to the other. Feeling convinced that it was useless to vex innocence with a pretence of proof based upon false and discordant evidence, he at once changes his inquisitorial system. He endeavours without success to obtain a confession on the first charge from the Accused, who remains silent, and this charge is then altogether abandoned; and then from the mouth that speaks the truth and does not admit culpability he extorts an affirmation which is merely a reply to be considered by the tribunal, but does not afford sufficient ground for a condemnation. Here follows the comedy of the rending of the high priest's garments unworthy even of an assistant scribe, and still less of a president of the supreme tribunal. In fact, the law did not even permit him to uncover his head.[16] But he very soon became calm and consoled himself by saying, "What need have we of further witness?"—as if the

witnesses the need for whom was at first felt had been brought to support the charge of blasphemy, instead of the first charge, that had already been abandoned.

Nevertheless, witnesses could not be dispensed with for the second charge, although the Accused was supposed to have admitted it, as according to the Mosaic law no confession can dispense with the proof required from witnesses by the law. A single witness only does not suffice, whatever may be the offence or crime with which an accused may be charged. There must be two or three witnesses.[17] This is one of the clearest texts of the law. Another text insisted not only on the concurrence, but on the agreement of the two witnesses, it being reasonable to consider that if one witness brought a charge and the other did not, it could not be said that the charge was proved by two witnesses as the law required. On the concordant depositions of two or three witnesses the accused found worthy of death must die. On the other hand, no one can suffer capital punishment when only one witness has testified against him.[18] And this is a rule of prudence and judicial wisdom that now obtains in scarcely any modern legislation, which confides to the unfettered discretion of the judge the full direction of the trial. Provisions like those of the Mosaic law were not, however, peculiar to the Hebrews alone, since a similar regulation existed among the majority of ancient peoples,[19] the practical spirit of the fathers of the law being convinced that there is no falsehood, however audacious it may be, which cannot find the support of some one witness. In this way thought and wrote Pliny, who was not, however, a jurisconsult.[20] And the Italian law, which does not contain in its penal code any such precaution, recognises and sanctions it in civil procedure, not admitting that contracts representing more than 500 lire can be proved by means of witnesses—as if the inno-

cence, liberty, and honour of the men of Italy were held at a lower estimate.[21]

The confession of the accused made no exception to the rule, experience showing how a confession could be the result of weakness, of folly, or of interest—yes, even of interest. Some homicide on one occasion confessed himself to be guilty of robbery or arson in order to obtain proof of his innocence of some greater crime which he had committed at the same time; a husband persisted in declaring himself guilty of outrage upon a woman really committed by some unknown person in order that, by being sentenced on this account, he might prove his marital efficiency, which had been disputed by his wife, who was contemplating steps to annul her marriage.

Some weak-minded people, unable to support the torture of a harassing examination, and eager to regain their liberty, make a full confession, accusing themselves in order not to be indicted, like those persons who, crossing a river on a plank bridge, throw themselves through nervousness into the rushing water in order not to fall in. Fools, from want of responsibility or through a boasting nature, accept, affirm, or confess everything of which they know nothing. Had Jesus really been the irresponsible fanatic which he appeared to be to Pilate and Herod, He could only have deserved flogging or the shame of the white tunic, and His confession would have been part of His folly.

It was necessary, therefore, that the blasphemy should be proved by at least two witnesses bearing concordant testimony that the Prophet of Nazareth had affirmed during His preaching that He was Christ, the Son of God. This was required for the regularity of the trial that was held in the Sanhedrin council chamber; it was no less necessary in order to establish the truth of a charge that was not legally proved.

There are other valid reasons which will shortly lead us to discuss the substance and not the form of the charge. The utmost severity was observed in taking the evidence of witnesses against a person charged with blasphemy—at least, so we are told by the compilers of the Talmud. Whether they faithfully record tradition upon this matter, we cannot be quite sure. The written law is silent upon the point. In such cases, according to the Talmudists, two witnesses were posted behind a party wall. The accused was brought into the adjoining room whence he could be overheard, without himself seeing anybody; but two candles were lighted close to him, so that he might be seen. He was made to repeat the blasphemy, and was then requested to retract it. If he did so, he was discharged; but if he persisted, the witnesses who had overheard him led him before the Sanhedrin, where he was stoned. The compilers of the Talmud set so much faith upon this tradition, that they insist that Jesus was proceeded against in precisely the same manner. This is the historical oracle which caused Renan to declare, with so much assurance, that the action which the priests determined to bring against Jesus was in complete conformity with contemporary law, and that the procedure against the perverter who had attempted to violate the purity of religion was fully set forth in the Talmud. But even if this or some less ridiculous rite was observed in obtaining the confirmation or retractation of blasphemy, it could never have taken the place of the exigencies of legal procedure, which were a matter apart and of considerable importance, and which were imposed by the written law, and could not be modified by tradition—the necessity of proving, by means of unanimous witnesses, that the Accused had publicly blasphemed in the open comings and goings of everyday life; and in this consisted the crime, and not in any answers

to the judge, which constituted the defence but never the guilt of the prisoner. Had it been otherwise, any polytheistic foreigner coming to Jerusalem without having had either the time or intention to profess an anti-Jehovist creed, might have been brought, merely on suspicion, before the Sanhedrin; might have there been examined as to his belief in another god who was not Jehovah, and upon his spontaneous confession, vouched for by two witnesses, he might have been condemned to death. The confession of a prisoner might make his guilt manifest, but it could never be the independent and exclusive occasion of his guilt.

But the condemnation had already been decided upon before the trial: it was expedient that a man should die for the sake of the State; it was not proofs but pretexts that were sought. Jesus knew it, and disdained to reply to what was advanced in the first place because it was false; what was advanced in the second place He of His own accord and freely admitted, because in its material basis it was true. When a false and unjust charge was brought against Him, He held His peace, and He answered when no proof, not even a false one, constrained Him to speak. Novel and sublime behaviour this, indeed, on the part of a prisoner at the bar!

This conduct in itself should have sufficed to enlighten the judges, should have enlightened them, more than the farce of the candles and the witnesses, as to the nature of the dilemma—namely, that the prisoner before them was either a fanatic or should be acquitted as an apostle to whom men should hearken.

NOTES

[1] *Antiq. jud.* lib. xviii. cap. iv. par. 3.

[2] *Hist. eccl.* i., ii., *Demonstr. ev.* 3, 7.

[3] Müller, among others, believes this: *Christus bei Josephus Flavius*, Stuttgart, 1890.

[4] Arnold, *Die Neronische Christenverfolgung*, 1888. Its authenticity was denied, among others, by Hochart.

[5] *Ann.* xv. 44.

[6] On these sources, cf. Reville, *Jésus de Nazareth*, i. 266. An allusion to Jesus is supposed to be made in Joshua, "*homo probatus a domino*," which is spoken of in the *Assumptio Mosis* (1, 6; 10, 15), which was written shortly after the destruction of Jerusalem towards the end of the first century. Cf. Chiappelli, *Nuove pagine sul Crist. antico*, p. 16.

[7] S. Luke i. 1-3.

[8] Chiappelli, *op. cit.* p. 21. Concerning the reception given by orthodox critics to these heterodox disquisitions, the observations of Father Curci are worthy of note. He says: "Catholics would be ill advised to take offence, seeing that the Church has defined as inspired Scriptures all the books contained in the Vulgate (Conc. Trid. Sess. iv. Decr. de Script. Can.), but as to the matters not affirmed in those books, such as some questions of authorship and of time and place of origin, all that is left to the study of the erudite and to the inventive vein of the critics" (*Il Nuovo Testam.* Preface to the second Epistle to the Corinthians). But in these days even the Jesuit world appears to be a timid conservative among orthodox critics, who now concede much more. Moreover, I have scarcely touched upon the very intricate critical and philological questions regarding the text of the Evangelists, since a fair though summary exposition of them would fill a large volume. Among the most recent works to be consulted on these questions are that of Theodor Zahn, *Einleitung in das Neue Testament* (2 vols. 2nd ed. Leipzig, 1900), and by the same author the ample *Commentary to the Gospel of S. Matthew*, Leipzig (1903). Dealing with more strictly theological questions, there is the book

of Frederick Blass, *Philology of the Gospels* (London, 1898), while for an excellent notice of all modern works on these subjects we have the book of E. Jacquier, *Histoire des livres du Nouveau Testament* (Paris, 1903), but up to the present only the first volume, dealing with the Epistles of S. Paul, has appeared.

[9] These dates are defended by Harnack. Zahn differs but slightly, except that he dates the present version of S. Matthew from the year 85, and the primitive Aramaic S. Matthew from about 62. The date of S. John's Gospel, which by a unanimous consensus of opinion is the last, varies according to the critics from 80 to 110.

[10] xxvi. 59-66.

[11] xiv. 55-64.

[12] *Vie*, tom. ii. ch. iii. par. 125.

[13] Cf. Strauss, *l.c.*

[14] S. John xviii. 18.

[15] xviii. 27, 28.

[16] Leviticus x. 6: "And Moses said unto Aaron, and unto Eleazar, and unto Ithamar, his sons, Uncover not your heads neither rend your clothes; lest ye die, and lest wrath come upon all the people." *Ibid.* xxi. 10: "And he that is the high priest among his brethren, upon whose head the anointing oil was poured, and that is consecrated to put on the garments, shall not uncover his head, nor rend his clothes."

[17] Deuteronomy xix. 15.

[18] Deuteronomy xvii. 6. A perfect parallel of this command occurs in the second Epistle of S. Paul to the Corinthians: "In the mouth of two or three witnesses shall every word be established" (xiii. 1). In order that witnesses should feel the responsibility of their charges, the law required them to be the first to carry out the sentence (Deuteronomy xvii. 7).

[19] It existed principally in the Roman law: L. 20, Dig. *De quæstionibus* xlviii. 18; l. 9, par. 1, Cod. *De testibus*, iv. 20. Cf. Cremani, *De jure criminali*, lib. iii. cap. xxvi. par. 9, p. 650; Montesquieu, *Esprit des lois*, l. ii. ch. iii. tom. i; Brugnoli, *Della certezza e prova criminale*, pars. 263, 272. As a matter of fact, the basis of this question was viewed from a criterion of mere

symmetry, since it was held that between an accused person who denies his guilt and a simple witness who affirmed it there resulted an even balance. There must, therefore, be a third witness, whose evidence should make the scale turn for conviction, otherwise the presumption of innocence in favour of the accused should prevail. This principle is just, because human, and though it may not require formal confirmation, it should be strongly and constantly recommended to the judges now free to decide according to their own innermost conviction, but not from chance motives.

[20] *Hist. nat.* lib. viii. cap. xxii: *Nullum tam impudens mendacium est quod teste careat.*

[21] Art. 1341, Cod. civ.

CHAPTER XIV

Wherein the two Charges are examined with Reference to their Contents—It is shown that the Charge of Sedition was False and that of Blasphemy Unjust—Confutation of the Thesis of Renan that it was the First and not the Second Charge which caused the Condemnation before the Sanhedrin—How Jesus proclaims Himself the Messiah—Moral and Historical Conception of the Messiah—How the Messiah was understood and awaited by the Contemporaries of Jesus in Various Manners—How the Judges of the Sanhedrin neglected their Duty in not raising the Problem of Messianic Identity with Regard to their Prisoner—Contemporary Judaism and Christianity successively prove that this Problem ought not to have been set on one side by a Foregone Conclusion—The Sanhedrin conducted a Conspiracy, not a Trial.

Of the two charges, the first was untrue, the second was unjust. This double assertion brings us to a question of matter, whereas we have digressed into a discussion upon procedure.

It was not true that Jesus had said: "I will destroy this temple that is made with hands, and in three days I will build another made without hands." This was a malicious and false perversion on the part of the witnesses, who had been discovered and suborned by the judges themselves with great difficulty. Salvador and Renan remark that as an absolute matter of fact the two witnesses whom S. Matthew and S. Mark call false did nothing more than repeat a statement which S. John later on asserted to be true. But S. John never did

attribute any statement of the kind to the Master. The Evangelist reports the following words: "Destroy this temple, and in three days I will raise it up."[1] Now S. John believed that Jesus spoke of the temple of His body;[2] but, setting aside this interpretation, the literal meaning of the words is clear: the notion of the destruction is hypothetical and the raising up is subordinate. It is as if Jesus had said, "Destroy this temple"; or even "If you destroy this temple." The destruction was supposed then as being brought about not by him, but by his interlocutors, and merely as a hypothesis: the building-up again would never have taken place had not the destruction first been accomplished. The witnesses, however, changed the words on which the charge was founded, attributing to the accused the resolute declaration "I can destroy" (*possum destruere*) instead of the hyperbolical supposition "Destroy ye the temple" (*solvite templum*). This is why the first charge was untrue, and this is why the witnesses did not agree, compelled as they were to build upon false foundations.

The Accused did not pause to call their veracity in question, when He was examined by Hanan.

"I have spoken openly to the world," He replied. "I ever taught in the synagogue, and in the temple, where all the Jews come together, and in secret spake I nothing. Why askest thou Me? Ask them that have heard Me, what I spake unto them." But He was smitten and given no hearing. If they had had any faith in the truth which they made semblance of searching out, they might have heard as witnesses, certainly with the strictest reservations inspired by caution and suspicion, yet they might have heard the followers of the Accused, who might also have confessed as the Master himself was to confess in the case of the second charge. Moreover, S. John was present, who was a familiar figure in the house

of Hanan. S. Peter stood there, one foot in court and one on the threshold. It would not have been difficult either to have taken the evidence of the creatures they had set to dog the man they suspected and to draw him into admissions: nor, considering the moral trend of the proceedings which had been set in motion, would it have been inopportune to call in witness the spy who had offered and sold his intimate connection with the Master in order to procure His arrest.

But "what further need have we of witness?" In a very short time, and quite openly, this was the cry of the president of the Sanhedrin. And this, and not that of the Accused, was a veritable confession.

It might also be remarked that the proposition when restored to the textual form of the Evangelist, by whom it is alone reported, is not the threat of any evil, but the promise or boast of a benefit such as certainly would have been the restoration of the temple, which the Jews had taken six and forty years to build.

But in reality Jesus neither prophesied nor provoked the fall of the temple: He merely made it a supposition. Thus it was impossible to consider Him a false prophet endeavouring to lead astray believers in Jehovah, nor an inventor of dreams, who gave Himself out for one of those that can read the future, seeing that He never professed to see in dreams aught that was contrary to the "promise" and the common faith.

But it is useless to spend time upon a charge which was inwardly abandoned before the Sanhedrin itself. And it is therefore also useless to waste time in showing that silence of the Accused could not be substituted to make up for the want of proof, which rendered it necessary to throw up the charge. No exponent of the Mosaic law could ever have thought that such a substitution would be efficacious. By the Mosaic law even an explicit

confession did not suffice unless the crime admitted were first proved by means of witnesses. Afterwards, if Pilate had had to give judgment in the case of a silent prisoner, he would have declared with the text of the Roman jurisconsult who had at that time already made utterance: *Qui tacet non utique fatetur?* [3] Jesus was silent when He might have defended Himself: He spoke when He could inculpate Himself.

Nevertheless the Breton biographer persists in maintaining that it was the first charge and not the second which brought about the condemnation of the Nazarene, and this too owing to His silence. "To blaspheme the temple of God," says Renan, "was, according to the Judaic law, to blaspheme God Himself; Jesus stood in silence and refused to explain the expression charged against Him. If we are to believe one account, the chief priest then adjured Him to say whether He was the Messiah, and Jesus then confessed, proclaiming before the assembly the approaching advent of the heavenly kingdom. But as He was determined to die, the spirit of Jesus did not call for this testimony. It is much more likely that here too, even as before Hanan, He held His peace. This was His rule of conduct in the last moments." [4] But the art of probabilities, to which indeed the writer, having already made up his mind, does not even give support, gives way before the testimony of history. S. Mark and S. Matthew supply us with the very details of Jesus's final declaration that He was the Messiah; and to theirs S. Luke also adds his report, although he refers the statement to the second audience before the Sanhedrin.[5]

There is no question then of giving credence to a mere story, but to allegations which are not confuted by any others. Renan imagines that he has discovered a confutation in the account of the fourth Evangelist, who

does not indeed discuss the motives of Jesus's condemnation, but limits himself to recording the first words spoken by Him to Caiaphas, without any allusion to His Messianic declaration. But S. John is also silent as to the first charge concerning the destruction of the temple; and one must also admit that to rely on him in order to impugn what we are told by the others is practically building in the air, or is at least to prefer one negative to three positive data. But the three Synoptics are unable to convince Renan because they were not present at the trial before the Sanhedrin. Was, then, Renan there?

And amongst those at all events who can claim to have been nearer to the event, who is there who furnishes us with contrary evidence? Not S. John, for he says nothing. No other narrators, for such are unknown to us. The Synoptics, then, alone remain.

The thesis of Renan is directed towards a very manifest object—the object, in fact, which is reflected throughout the whole of this "extraordinary" work, as the author himself describes it. His aim is to contradict all the Messianic resemblances of the Nazarene. Every one knows whither the spirit and need of contradiction lead. "Jesus," we read in the first pages of the book, "never gave expression to the sacrilegious idea that He was God." [6] As at this point the writer finds himself confronted no longer with pliant resemblances or with apostolic fictions, which may be confuted, as to the Messianic character of the Master, but finds himself face to face with an original and explicit affirmation, he distorts the data furnished by tradition, turns them upside down, denies without confuting, asserts without proof, and contradicts himself once again. All this is unworthy even of an "extraordinary" book. Whosoever admits his very remarkable genius and learning need not

feel the more discouraged by this recognition when he reflects that a man truly distinguished, immortal perhaps, in attempting to back up the foregone conclusion of a case to be defended may fall, whilst overwhelming us with authorities and contradictions, lower than the humblest commentator of a criminal case.

If the Tréguier seminarist differed from such ascetics as say, "Jesus was the Son of God because He Himself declared it," he was not under any necessity to jeopardise his scientific dignity by employing his speculative genius in puerile hair-splitting. He might have said, as any *bonâ-fide* critic would say, and with proportionately greater effect: If Jesus was not really the Son of God, He might nevertheless have declared Himself to be so. This does not in any way suffice to show that He was. It was quite clear that the position of the ascetics which had to be combated involved a *petitio principii*, and in order to combat it there was no necessity whatever to have recourse to logical errors a hundred times worse. It was therefore not the first but the second charge which decided the fate of the Accused.

It was unjust, as we shall show, but in its material foundation it was true, for Jesus had really declared Himself to be the Messiah. This truth should have been proved by means of witnesses, notwithstanding the avowal of the Accused. But this concerns the question of procedure, which has been already treated, and does not rest upon the merits of the case now under discussion. What was imputed to Jesus in the second count of the accusation was true, and we are right in repeating this. He had declared Himself to be the Son of God, though all the same such a declaration could not give rise to a condemnation for blasphemy.

To the demand of the high priest, "Art Thou the Christ, the Son of God," the Accused replied, according

to S. Matthew, "Thou hast said"; according to S. Mark, "I am." And according to the first he added, "Nevertheless, I say unto you, Henceforth ye shall see the Son of Man sitting at the right hand of power, and coming on the clouds of heaven"; according to the second, "Ye shall see the Son of Man sitting at the right hand of power, and coming with the clouds of heaven." There can be no doubt that the "thou hast said" (*tu dixisti*) of S. Matthew is equivalent to the "I am" (*ego sum*) of S. Mark, and the practically identical words which both of them add, prove the affirmative meaning of the reply. S. Luke, referring constantly to the second audience before the Sanhedrin and not to the first, which he omits, blends, as if on purpose, the two answers into one: "And they all said, Art Thou then the Son of God? And He said unto them, Ye say that I am" (*Vos dicitis quia ego sum*).[7] S. John is silent, because he condenses into one the account of the whole trial from the examination before Hanan as to the disciples and teaching of Jesus[8] down to the time when Hanan conducted Him to the Prætorium, which event took place in the morning.[9]

"He hath spoken blasphemy," declared the high priest, and he spoke no further word in support of his decision. "He is worthy of death," said the whole Sanhedrin passing sentence, and this, without any species of justification, was the sentence of death.

In order that we may discover whether such a sentence was just, or how far it was just, we must necessarily learn what was the Hebrew notion regarding the Messiah, and we must, above all, try and find out whether the judges in Jerusalem had any reasonable justification for excluding the possibility without any discussion of the Messiah being Jesus Himself. It is in their predetermined, fanatical, and precipitate exclusion of this possi-

bility that lies the whole injustice of the second charge and of the resulting condemnation of Jesus.

In the downward path of life towards death man suffers, and in its own life of centuries humanity accumulates and multiplies within itself these sufferings of his. In answer to a supreme need for peace and rest, good reveals itself to the suffering in continuous and warring contrast with evil. Science, with proof drawn from every-day experience, teaches us that in this unequal fight the best victory is but the balancing of the two forces, and that even in this difficult state of equilibrium peace and repose are not attained. But hope, which is the stimulus of the fight, furnishes each day, each hour anew, the martyred but unvanquished soul with fresh needs and fresh confidence, and in its sense of inadaptability to pain it seeks and traces up the inner secret of its boundless aspirations.

This secret has its own language made up of symbols and metaphors; and a people warred against, persecuted, and exhausted, as is humanity taken all in all, speaks the language which its own nature and its individual history have given it, and invokes and shapes to itself under the forms of symbol and metaphor a superhuman deliverer from its long and restless sufferings, a deliverer who is none other than man himself victorious, humanity itself which triumphs in hope and imagination. In the case of the Hebrew people such a deliverer, so conceived and so invoked, is the Messiah.

The Redeemer that is to arise in the land of Israel is indeed a man, but so powerful as to make Himself almost God: for the Christian world, on the contrary, the Redeemer, already come down to earth, is a God, but so compassionate that He makes Himself man. It is the craving, long restrained, for national vengeance, which causes the Hebrew people to deify its avenger:

it is the deep-felt longing for universal peace which causes the Christian world to humanise its God. In the latter case imagination is kindled by the recent constitution of the Empire; that melancholy feeling which fills men's minds, after a long trial of revolutions, arouses limitless hopes. A new era of peace has begun: tender, clear-sighted Virgil appears like a secret echo of the second Isaiah; the birth of a man-child stirs in him visions of universal palingenesis.[10]

But if it is needful to remark the deep abyss between the Hebrew and the Christian beliefs concerning the same subject of faith, this does not mean to say that, at the time of the mock trial before the Sanhedrin, broader and mutually different ideas as to the Messiah were not already beginning to shape themselves—ideas which lent themselves to the most free identification of the Messiah. The coming of a deliverer, summoned by the Eternal, was not expected by all after the same manner or in the person of a single messenger or even of two: so that the criterion of elimination became ever more problematical and perilous. The most common Messianic dogma was that of a national, political, and religious deliverer, who should appear as a descendant of the dynasty of King David, who should come to lead back again to Palestine all the Jews scattered over the surface of the earth, who should re-establish the kingdom of the Davidic line, build the temple anew and set up his throne in the holy city, whence he should convert all peoples to the religion of Jerusalem. There was, nevertheless, not wanting in the Messianic conception of the prophets and theologians of Hebrew literature the mythical form of a Messiah who was to shed His spirit over all flesh and inaugurate an era of perfect peace and justice upon earth.[11] With a Messiah of this type Jesus of Nazareth might be fully identified. It

was not necessary to think that such an identity was a sacrilege and an audacious invention of Jesus Himself, who was therefore to be held guilty of blasphemy.

As a matter of fact Nicodemus and other educated Hebrews of that time believed firmly in such an identity, and notwithstanding their perfect acquaintance with the Messianic beliefs of their people, they recognised in Him the Son of God. The most ancient Christian Churches, which began to profess this conviction, did not found it elsewhere than in the Canon of that Scripture which was the text of Hebrew meditation and Hebrew faith. From the passage in Genesis which has been called the Proto-Gospel, and in which God proclaims to the Serpent, to the spirit of evil, his punishment, down to the Book of Daniel, in which the prophet shows four great empires, depicted each with its distinctive character; from the Pentateuch to the Psalms; from the Psalms to the Prophets; from the Prophets to the closing pages of Hebrew traditional literature, in which are completed the initiatory signs of a Messiah, son of Joseph, suffering, calumniated, crucified—Christianity gathers the Messianic predictions from amidst this intellectual and sentimental patrimony belonging exclusively to the Hebrews. This is tantamount to saying that the identification of the Messiah should have appeared to calm and unbiassed judges as a matter to be discussed, if not to be decided in favour of the Accused, who with His eyes fixed upon the Cross declared Himself to be the Christ, the Son of Man. To have not discussed it, to have denied it without debate, constitutes the whole injustice of the second charge and of the condemnation.

It would be an easy thing to enter into a minute exegesis of the Messianic data which can be drawn from the biblical writings, but it would at the same time be

useless, because, however far-reaching such an investigation might be, it would be throughout necessary to admit that the judges of Jerusalem might have come to the conclusion that those data did not tally with the character and mission of Jesus by a logical process of appreciation and conviction which entirely depended upon the impressionability and good faith of the judges.

The decision, although unfavourable to the Accused, would have been in quite judicial form, if it had been based on the result of the analysis and synthesis requisite to a judgment.

On the other hand, any censure directed against this decision merely because the evaluation of the points of Messianic comparison might have led others (*i.e.* all Christians believing in the supernatural character of the Nazarene) to an opposite conclusion, would be injudicial. The error of the judge, when it is caused not by any perversion of the facts of the case, but upon their wrong evaluation, finds complete justification on the score of human imperfection, which moreover is shared also by him who judges the work of the judge.

But before the Sanhedrin the judgment was determined neither by analysis nor synthesis even of the most perfunctory kind. Who, amongst the judges, asked himself who Jesus was, whence He came, and what was the mission to which He was called? Not one. Who of them, despite their belief in the supernatural, ever raised the problem of the Accused's divinity? Not one. Who among them investigated the personal features of the son of Joseph, born at Bethlehem, whence the majority looked for the Messiah to come? Nobody ever questioned the Accused. Who amongst them all subjected even to superficial examination the evidence of those who had occupied themselves with the Messianic qualities, rightly or wrongly attributed to the Nazarene? No-

[redacted]

tory signs and outward indications which the Hebrews have ascribed to the Messiah.

To-day the orthodox Jew and the Christian rationalist may believe that Christianity has long deceived itself in asserting this belief, and that the rejection by Judaism was founded upon the truth. But this inward thought is of no account in justifying the judges of the Sanhedrin. The orthodox Jew and the Christian rationalist might not only pardon, but even approve them, if they had condemned Jesus upon a recognised principle, with due spontaneity and form of procedure, but this is not what occurred, and no excuse is given. They denied Jesus to be that which He declared Himself to be, but they did not inquire who He was, they did not examine whether the facts of His character and of His mission corresponded with those upon which contemporary superstition founded the Messianic identity. They did not back their denial by proof either in the nature of comparison or of elimination, although that which they denied was what was generally and firmly believed. And while they did not take even into summary consideration the statement of the Accused, which they set aside as a folly not meriting discussion, they based upon it the proof and substantial fact of a crime which should always be looked for in the free and spontaneous tenour of a man's life, and not in the inviolable exercise of his defence.

But for Jerusalem the destruction of a man was expedient, and that is sufficient reason for political justice.

NOTES.

[1] S. John ii. 19: "Destroy this temple, and in three days I will raise it up."

[2] S. John ii. 21.

[3] l. 142, Dig. *De regulis juris*, L. 17.
[4] *Vie*, ch. v.
[5] xxii. 66.
[6] *Vie*, ch. v. at beginning. Here we also encounter the adjective *bizarre* applied by the author to his book.
[7] xxii. 70.
[8] xviii. 19.
[9] xviii. 28.
[10] Renan, *Vie*, ch. i. These visions (again remarks Renan) were not rare, and composed a literature apart, which was known under the name of the *Sybillæ*; the *Cumæum carmen* in Eclogue IV. was a species of Sybilline Apocalypse, which bore the imprint of the philosophy familiar to the East (*l.c.*; cf. Servius, *Ad carmina sybillina*; Suetonius, *Aug.*).
[11] Sa 'adja (*Emunoth Vedè oth*—Faith and Science) and Judah Levita (*Cuzari*, i. 67) were among the most learned Hebrews who have given us dissertations on the Messianic hypothesis. Maimonides (*Commentary on the Mishnà Sanhedrin*, cap. x. or xi. according to other editions, par. 1), who in the twelfth century reorganised Mosaism, and provided us with precise criteria of Messianism; Chasdai Kreskas (Light of God) fiercely opposed Maimonides in the fourteenth century and brought forward hypotheses entirely contradicting him. Albo (*Fundamental Dogmas*) in the fifteenth century simplified the Hebrew religion and reduced all its dogmas to three; Akìbà (*T. B. Berachoth*, 61*b*) under Emperor Hadrian was the author of the second Talmudic phase, which tends to abandon all the broader and more tolerant principles professed by the more ancient rabbis, and especially by Hillel and his grandson, the elder Gamaliel. Cf. Abrabanel, *Rosh Amanà*, cap. ii; Luzzatto, *Lezioni di teologia dogmatica*, p. 87 *et seq.*; Castelli, *Il Messia secondo gli ebrei* (Florence, Le Monnier, 1874); and Conti, *Il Messia, redentore vaticinato, uomo de' dolori, re della gloria* (Florence, Libr. Salesiana, 1903)—an exceedingly senile "operetta" by the venerable philosopher, "*quasi viatico per l' altra vita.*" Castelli remarks authoritatively, synthesising these numberless divergent hypotheses: "It is impossible to deduce from Hebrew theology any decided opinion as to its dogmas, seeing that the most authoritative writers of treatises

are in disharmony amongst themselves and no authority superior to them has so far arisen, nor could it arise, either to conciliate them or to pronounce which opinions shall be accepted and which rejected. However divergent and varying they may be, they are equally accepted as orthodox within Judaism; . . . the prevalence, if not by right, at any rate in fact, will be with the opinion of Maimonides and will stop any liberty of discussion, if not amongst the learned, at any rate amongst the people. In that way all the immense labour done by Maimonides with regard to the reorganisation of Judaism has ever since done more harm than good . . . that contradiction, that disorder, that want of unity, formed, it is true, a most confused chaos in Hebrew tradition; in opportune time and conditions it will produce a genius which will create a new cosmos. Dialectics and scholasticism, while pretending to bring order into the chaos, have made it a necropolis. In lieu of a broad interpretation of the rights and of the laws was substituted a formalism, admirable indeed in its logic and order, but precisionist and full of minutiæ, leaving not a trace of free decision. Instead of a free discussion, opposing opinion to opinion, they placed a conciliation, full of cavil, of the Hebrew religion with the Aristotelianism of the Arabs. The free examination of each individual was replaced by thirteen articles of faith, indetermined in their minute precision and barren in their love of copious detail. And that was the work of Maimonides, perhaps the greatest genius of his times, worthy of comparison with the greatest of all ages, the true Thomas Aquinas of Hebraism; but in whom the Arabian philosophy and scholasticism, which was embraced by all intellects, created the belief that man had reached the Pillars of Hercules of knowledge and that all human and divine science might be gathered up by one man in one *Summa* in order to say to humanity; 'Lo, here is the perpetual norm or model of all faiths and of all action.' In those times, perhaps, the work of such portentous men did not do much harm—at any rate, people might have admired the variety and the dexterity of their genius, the abundance and profundity of their knowledge. But since then the centuries have proved that their work was not sufficient, and the upheaval of the Reformation has rendered the *Summæ* of scholasticism impossible in the Protestant Church. In Hebraism,

where no reformer has arisen to renovate or purify the atmosphere, that *Summa* of Maimonides, which formerly might seriously appear as a body of admirable structure, has since become not only obsolete and dead, but also so thoroughly morbid that the whole of the atmosphere of Hebraism has been diseased by it" (*Introduzz.* pp. 17-23).

CHAPTER XV.

In which it is shown that the Sentence ascribed to the Sanhedrin was not a Judicial Sentence—How in the Alleged Sentence there is no Indication of the Kind of Punishment—How not one of the Evangelists treats of a Real Sentence—Exposition of the Mosaic Penal System in order to deduce what would have been the Punishment applicable to Jesus—The Various Forms of Capital Punishment: Hanging, Stoning, Burning, Decapitation—Preventive Imprisonment—Fine and Flagellation—The Crimes Punishable with Death—How for the Crime of Blasphemy stoning was decreed—It is concluded that had Jesus been condemned by the Sanhedrin He would have been stoned.

THE verdict was unanimous. The members of the Sanhedrin who were secretly favourable to the Accused were either absent or else they voted against Him. Nicodemus was amongst the absentees, or amongst those that voted against Him. At all events he did not raise his voice against the pronouncement expressed by acclamation. But the condemnation made no mention of any species of capital punishment. This in itself would suffice to make clear the view which has already been advanced—namely, that this pronouncement was no regular verdict, but simply a charge which alone could be deliberated upon by the Sanhedrin. According to S. Matthew, those present confined themselves to crying, subsequently to the remark of the high priest with regard to the blasphemy attributed to Jesus, "He is worthy of death."[1] According to S. Luke, they did not even go so far as this. They remarked unjustly

that there was no further need of witnesses; and thereupon "the whole company rose up, and brought Him before Pilate, and they began to accuse Him."[2] In S. John there is no indication of any pronouncement whatsoever. Immediately after the denial by S. Peter and the crowing of the cock, those assembled "led Jesus . . . from Caiaphas into the palace."[3] S. Mark alone declares that after the blasphemy "they all condemned Him to be worthy of death."[4] But a solitary remark of so vague a description does not suffice to corroborate the idea of a condemnation, except of an irregular, merely moral kind, susceptible in its judicial sense alone of being considered an accusation, especially if we reflect that there is a complete absence of any indication as to the species of punishment.

It is true that Hebrew law in threatening death does not always refer to the precise manner of the punishment. This, however, is not so in the case of the crime of blasphemy, which, as we shall come to see, was expressly punished with stoning. This furnishes us with an occasion for discussing the penal system according to Mosaic law.

Scriptural law, as we know from the Pentateuch, embraced three varieties of punishment: death, flagellation, and fine. Imprisonment, which is mentioned in the Book of Kings[5] and in Jeremiah,[6] was not employed as a penalty but merely as a means of custody. It is to incarceration of this kind that S. Peter must have alluded at the Master's Last Supper when he boasted that he was ready to go to prison for Him,[7] though he was to shirk even this misfortune in the hour of peril.

The *ergastulum*, in which prisoners suffered life-long detention of a most severe description, was rightly reserved for habitual criminals of the most obstinate type, and is not to be met with in the Pentateuch,[8] but only

among the novelties introduced by the compilers of the Talmud, who were always on the look-out for any means of circumscribing the death penalty.[9]

A form of capital punishment frequently employed was hanging. It might even seem that this should be considered the extreme penalty *par excellence*, and as that which should be understood in every case where the law, while threatening certain crimes with capital punishment, did not indicate any particular mode of death. A provision of Deuteronomy seems to bear this out: "And if a man have committed a sin worthy of death, and he be put to death, and thou hang him on the tree; his body shall not remain all night upon the tree, but thou shalt in any wise bury him that day; (for he that is hanged is accursed of God); that thy land be not defiled, which the Lord thy God giveth thee for an inheritance."[10] This passage has been viewed by some interpreters in the sense that hanging was not the first and essential form of capital punishment, but that it was an act of despite done to the body of the criminal who had already been put to death by some other method of execution. And as a matter of fact there would be no historical absurdity in this superfluous outrage upon a prisoner already dead. Such a course has frequently been adopted with exquisite legislative ferocity for the purpose of causing the greatest public terror and of making the punishment even more exemplary.[11] But an outrage of this character would have been in obvious contradiction to the meticulous and superstitious feelings with which the Jews were saturated regarding dead bodies, not only from ancient and deep-rooted tradition, but also owing precisely to this provision of the law. If it is here laid down that he that is hanged is accursed of God, and that the exposure of his body during the night brings pollution on the

land of Jehovah, it cannot be supposed that hanging would have been adopted as a superfluous mode of execution over and beyond that strictly necessary to bring about the death of the condemned. Outrage and respect for a corpse would be contradictory terms in one and the same legal provision. The superstitious ideas prevailing among the Hebrews concerning the defilement of bodies were advanced as the reason why those could not serve as priests of the sanctuary who had contracted pollution through the death of their fellow-citizens, or even of the prince. They were unclean if only they had touched the body or even if they had merely followed its obsequies, or entered the house in which it lay.[12] When the body of a murdered man was found and the author of the crime was not discovered, an expiatory sacrifice in order to obtain impunity from this pollution was required of the inhabitants of the city nearest to the spot in which the corpse had been found.[13] Moreover, if hanging was merely a posthumous and accessory form of execution, what was the principal method adopted for crimes for which the law prescribed only the penalty of hanging?

Those learned in the Talmud, under the pretence of gathering up a traditionary law supposed to have existed side by side with the written law, have distorted the most characteristic penal regulations. In maintaining the merely accessory employment of hanging, they imagined that the principal method of execution was by means of a process of strangulation.[14]

But the text of Deuteronomy alone, which we have cited above, speaks of a process of strangulation, and that too in reference to hanging. Of strangulation pure and simple there is no mention here or elsewhere. Posthumous hanging was therefore a mere piece of imagination on the part of the Talmudists.

A manner of putting to death more frequently resorted to in the case of various crimes was stoning. This was carried out in two manners. The prisoner was either buried among the stones, the witnesses by whom he had been accused being compelled to throw first, or else he was led to the summit of a high rock, from which one of the two accusing witnesses cast him down, while the other rolled over a huge stone upon his body. After this, if he was not already killed, stones were cast at him till he was quite dead. Both of these executions were probably accompanied by the forms recorded for us by the rabbin of the Talmud. The condemned was led out of the city preceded by an emissary of the Sanhedrin, holding in his hands a pike from which fluttered a banner intended to call the attention of anybody having anything to propose in justification of the prisoner. If any one put himself forward, the whole procession came to a standstill, and the condemned was remanded to prison.

Another method of execution was by burning, which was inflicted in cases of adultery with a mother-in-law or wife's daughter, and of prostitution of a priest's daughter.[15] This punishment took the form of burning on a fire, as we are told indeed by the Talmudists, who, however, forget this information advanced by themselves in order later to maintain that the prisoner was compelled to drink molten lead, so that his body might be preserved.[16]

A more simple and dispassionate kind of death was reserved for the city which rendered itself guilty of apostacy in following polytheistic or idolatrous creeds. All the inhabitants were to be put to the edge of the sword and decapitated, while the city with all it contained, being given over to the flames,[17] became an everlasting sepulchre in honour of Jehovah, and above all

for His appeasement. For the fundamental idea which underlay Mosaic criminal law, and even more recent schools, was the necessity for appeasing the Divinity, directly offended by any crime which was viewed as sin.

It would appear that a special form of death was reserved by the law for those guilty of certain species of incest: "they shall be cut off in the sight of their people."[18] In this "cutting off" Talmudists have been anxious to discover the destruction of the soul (*chareth*), or rather death by heavenly means, which is much the same as saying an internal punishment entrusted to providence and carried out by human justice with scourging alone. But this interpretation is entirely arbitrary, firstly because it is impossible to conceive an inward heavenly punishment which could have been carried out in the presence of the assembled people, and secondly because the legal phrase, when intelligently explained by means of comparisons, turns out to signify the extreme penalty expressed in its generic form, and therefore to be carried out by means of hanging.

The extreme punishments were therefore four in number: hanging, stoning, burning, and decapitation.

Of the two minor penalties, fine and flagellation, the first was enacted against certain fixed crimes, and the second was reserved for non-capital offences not punishable in any determined manner. In Deuteronomy, in fact, the judges are instructed as follows: "If the wicked man be worthy to be beaten, the judge shall cause him to lie down, and to be beaten before his face, according to his fault, by a certain number. Forty stripes he may give him, and not exceed: lest if he should exceed, and beat him above these with many stripes, then thy brother should seem vile unto thee."[19] And as if to give an example of the unspecified misdemeanours punishable after this sort, the legislator

of Deuteronomy interpolates between these penal regulations and another connected with successions, the prohibition "to muzzle the ox when he treadeth out the corn" [20] on the threshing-floor, in order that the animals which aid man in his labour may have some share in the fruits of the common toil. The Talmudists, persistent in their constant endeavour to mitigate all regulations as to punishment, went so far as to reduce the maximum number of strokes to thirty-nine, and insisted that the culprit should have been warned of his fault before his transgression, once at least, instead of twice, as was required in capital offences.[21] But, at the same time as they mitigated the punishment in itself, they extended it in its application even to the king—an exceedingly just notion, but all the more strange for its being irreconcilable with the status of Hebrew monarchs, who reigned by divine right.

Fine was more especially inflicted upon those guilty of trifling offences against the person. This punishment was not regarded or measured as an obol to offended Jehovah, according to that law which was purely of religious origin and character, in the way that our fine has been regulated with regard to the pagan divinity, Justice, but was an indemnity proportionate to the damage caused. It is written in Exodus: "And if men strive together, and one smite another with a stone, or with his fist, and he die not but keepeth his bed, if he rise again and walk abroad upon his staff, then shall he that smote him be quit; only he shall pay for the loss of his time, and shall cause him to be thoroughly healed." [22] I cannot say whether the Talmudists are right in interpreting the word in the text which means "staff" in the sense of "health" and "strength," but they are certainly right in understanding that the smiter was quit of the customary penalty of death, in that he was

condemned to make good the damage. Perhaps they may also be correct in supposing, though they have not proved it by adducing texts, that the smiter was held in custody until it was ascertained that the blow would not result in loss of life. This would tally entirely with the institution of imprisonment merely as a means of preventive custody. At all events this enactment is noteworthy in that it directs the reparation of damage caused in cases of light wounds inflicted with irregular weapons. It is linked, across countless centuries, with one of the most just demands of the scientific penal school in the matter of assault and crimes of passion.

To these penalties were joined others of doubtful, or at least rare, application. Such were those comprehended in the system of retaliation (*lex talionis*), and especially the punishment involving the cutting off of the hand. It is impossible to deny that retaliatory penalties, based upon an instinctive sense of proportion, are inscribed in Hebrew law, as they are in that of all other ancient peoples; and it is impossible to understand how the Talmudists,and Diodati and Salvador with them, can have denied this.[23] "Eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe," is written in Exodus.[24] It is not impossible to suppose, as customs grew milder, that the practice shaped itself by which, on the agreement of the offended person, instead of the retaliatory repetition of the same offence, compensation was made by means of a fine determined upon between the parties, and confirmed by the law-administering power, as was the case among the Romans. The supposition is nevertheless arbitrary, firstly because it is not corroborated by any writing, and secondly because where the law contemplated pecuniary ret-

ribution, it did so openly, as in the case of assault and battery. I am rather inclined to believe that the disposition was adopted in the interests of both the prosecutor and the defendant, in the sense that it sanctioned a perfect proportion between violence as opposed to violence, in the exercise, more or less reasonable and immediate, of the right of self-defence. This interpretation is supported by the principle of private vengeance which Mosaic law did not deny to the offended party. Indeed, the next of kin to a man slain could put the slayer to death, and was called the revenger of blood. It is written in Numbers: "But if he thrust him of hatred, or hurl at him by laying of wait, that he die; or in enmity, smite him with his hand, that he die; he that smote him shall surely be put to death; for he is a murderer; the revenger of blood shall slay the murderer when he meeteth him. But if he thrust him suddenly without enmity, or have cast upon him anything without laying of wait, . . . neither sought his harm; then the congregation shall judge between the slayer and revenger of blood according to these judgments: and the congregation shall deliver the slayer out of the hands of the revenger of blood." [25] Now it is obvious that this enactment embodies a malignant form of retaliation, consisting in the giving of death for death, but it is also clear that the performance of this retaliation was entrusted to a private person, and that the judge only intervenes to supersede it in the case when he is solicited to bring the slayer before the kinsman of the slain. The same rule must have had force in the retaliation of eye for eye, and tooth for tooth, so that it must have been the aggrieved party and not the judge who had to exact the penalty, except when there was judicial intervention in the case of unjust exercise of this private right.

For a certain particular act a woman was condemned to have her hand cut off.[26]

All these punishments encountered an obstacle to their being carried out, in the existence of the right of sanctuary conferred upon six cities—three to the east and three to the west of Jordan;[27] but not in the existence of pardon, which was quite incompatible with the notion of a divine law which no man could neglect or mitigate. If we are to credit the Talmudists, and Maimonides in particular, the kings, while they were deprived of the prerogative of mercy, possessed the power of supplementing any deficiency in the law with decrees of their own. They could send a culprit to his death even when the full requirements necessary for his judicial condemnation were not forthcoming.[28] It was important to make this particular of criminal law quite clear, because when we hear the clamorous voices of the Jewish mob acclaiming Barabbas, proposed to them for mercy, there is no reason to think that this merciful prerogative appertained either to the people or to the ruling power of Judæa, when it appertained neither to the one nor to the other.

Among the crimes visited with the utmost severity of the law, those hold the first place which involved the violation of religion. The false prophet who rises amongst the people and maintains that he has seen dreams and visions, and foretells some sign or wonder, is liable in his life, though the variety of his death is not specified.[29] Death by stoning is the punishment awarded to the blasphemer, who is not otherwise mentioned or defined by the law. In this case all those who have heard the blasphemy must lay their hands upon the culprit and stone him.[30] The selfsame punishment is decreed against whosoever, without holding himself up for a prophet, endeavours to draw others away towards

polytheistic and idolatrous forms of worship. In this case the perverted man must be the first to raise his hand, and he was followed by the whole people, the perverter being killed beneath the hail of stones.[31] An enactment of equal severity is reserved for such as, without leading away others from monotheism, profess their own belief in the worship of foreign gods—that is, of gods unknown to their fathers. The miserable ascetic was led without the gates of the city and was forced to witness the building of his own tomb of stones.[32] In another portion of the law, amidst numerous cruel examples of the application of this punishment, the less grievous instance is given of the chastisement of those who worshipped the idol Moloch by sacrificing their own children to him.[33] Lastly, all such as proclaim themselves possessed of the spirit of wizardry are punished by stoning, as being guilty of an outrage upon monotheism;[34] those cultivating the art of divination, necromancers, magicians, seers, and sorcerers are visited with death, but in what shape is not indicated.[35]

The two charges brought by the Sanhedrin against Jesus should be set in contrast with the two first capital offences here set down.

The first is from Deuteronomy: "If there arise among you a prophet, or a dreamer of dreams, and giveth thee a sign or a wonder, . . . that prophet, or that dreamer of dreams, shall be put to death; because he hath spoken to turn you away from the Lord your God, which brought you out of the land of Egypt, and redeemed you out of the house of bondage."[36] Jesus, who, according to the first charge (which was false), was alleged to have foretold the destruction of the temple and the miracle of its building up again in three days, would have come into collision with this enactment, which, as it neglects to assign any particular variety of death,

entailed hanging. However, the false charge was abandoned, and on this account this punishment would never have been applied.

The other provision is from Leviticus: "Bring forth him that hath cursed without the camp; and let all that heard him lay their hands upon his head, and let all the congregation stone him. And thou shalt speak unto the children of Israel, saying, Whosoever curseth his God shall bear his sin. And he that blasphemeth the name of the Lord, he shall surely be put to death." [37] Jesus, if condemned in consequence of the charge of blasphemy, however unjustly, would have therefore been stoned.

But was He stoned? We have but to raise our eyes to the cross, the Christian emblem, in order to make answer that the suffering which He was destined to undergo was very different. Search as we may among the penalties inflicted by Mosaic law—penalties which we have here enumerated to this end—we shall not find among them the cross, which was a punishment peculiar to the law and custom of another people, as we shall proceed to show. Meanwhile, we have this twofold truth: that the Sanhedrin inflicted upon Jesus no punishment, and that which He later underwent was not amongst those which the Sanhedrin was able to apply. This is enough to corroborate the fact that Hebrew judges could not, and did not, condemn the prisoner from Nazareth.

NOTES

[1] xxvi. 66.

[2] xxii. 71, xxiii. 1. This is the textual passage between the chapters xxii. and xxiii. of S. Luke: in this passage, which corresponds exactly to the transfer of Jesus from the Sanhedrin to

the Prætorium, it is said in plain irrefutable fashion, "Coeperunt autem illud accusare" (Vulgate). This is equivalent to saying that the whole task of the so-called judges of the Sanhedrin was limited, down to the end, to bringing accusations.

[3] xviii. 27, 28.

[4] xiv. 64.

[5] 1 Kings xxii. 26, 27: "The King of Israel said, Take Micaiah, and carry him back unto Amon the governor of the city, and to Joash the king's son; And say, Thus saith the king, Put this fellow *into prison*, and feed him with bread of affliction and with water of affliction, until I come in peace." S. Jerome translates this last phrase "give him little bread and little water" (2 *Paral.* xviii. 26).

[6] xxxii. 2, xxxvii. 4, 20. The prophet Jeremiah is in the prison of Jerusalem where Zedekiah, King of Judah, has had him interred; but even this confinement is only inflicted for his safe-keeping until the end of the siege which the King of Babylon has laid to Jerusalem.

[7] Luke xxii. 33. In fact, the disciple did not only speak of prison, but said *in carcerem et in mortem* (Vulgate).

[8] There is, however, mention of the *ergastulum*, but merely as a place in which the slaves were guarded by night, as was the practice with the Romans. Cf. Jeremiah xxxvii. 15.

[9] As far as the death penalty was concerned, the Talmudists were ardent and indefatigable abolitionists. The most learned man of Israel, Rabbi Akiba, and his colleague Rabbi Triphon, said: "If we had been members of the Sanhedrin, nobody should have been condemned to death." The *Mishna* lays down the following. The Sanhedrin which once in seven years condemns to death is a bloody Sanhedrin. Rabbi Eliezer says even once in seventy-seven years. Cf. Rabbinowicz, *Législation criminelle du Talmud*, p. 172. But they were not only abolitionists, but also sentimentalists.

[10] xxi. 22, 23.

[11] The penalties of burning, breaking on the wheel, quartering, drawing at a horse's tail, and torture with pincers were punishments introduced by a codex which bore the name of a woman: Maria Theresa (*Const. crim. Theres.* Art. 5, par. 2). Very many other laws of various epochs, wrongly inspired by an erroneous

conception of punishment, prescribed tortures of the most exquisite description, such as suffocation in mud, drowning with a stone about the neck, the prisoner being abandoned in a boat which leaked (*Const. Crim. Car.* par. 131; cf. Pertile, *Storia del diritto Italiano*, Un. Tip. ed. 1892, par. 182, p. 262), disembowelling (Clodov. cap. v.; cf. Pauli, *Recept. Sent.* v. 17, 2), poisoning (*Arch. stor. it.* ser. xi. i. p. 67), roasting (Verci, *Trev.* xvi. 129), the boiling of the prisoner in water or in oil (Pertile, *op. cit.* p. 264), impaling *Const. crim. car.* par. 192), the tearing off of the flesh piecemeal, or of the skin in strips, or the tearing out of the heart (*Stat. Florent.* iii. 61; *Const. crim. Theres.* formularies, par. 6, 13), the casting to wild beasts (Dahn, *Die Könige der German.* i. 192), the walling up or burying alive of the condemned (Verci, *Trev.* ix. 107; Campori, *Stat. di Modena*, p. 126), death from want of sleep, from dropping water, from hunger, the rolling of the condemned inside a box studded with pointed nails (cf. Pertile, *op. cit.* par. 182, pp. 264, 265). Galeazzo II Visconti, by his famous *Quaresima*, codified the art of protracting the victim's sufferings for forty days. Examples are not wanting in history, tallying more closely with the case under discussion—*i.e.* of superfluous, because posthumous punishments. Thus, after the prisoner had been buried alive, the plough was passed over him (Cibrario, *Econ.* i. 432), or the bodies of the victims were torn into shreds and hung from the city gates (*Stat. di Lucca*, 1539, iv. 71); sometimes they were cast as food to the dogs and wolves (Verci, *Trev.* xiv. 203), at others they were left unburied for ever (*L. sal.* 97, 2).

[12] Leviticus xxi. 1, 4, 11.

[13] Deuteronomy xxi. 1-9.

[14] *Mishna*, 49, 52. Strangulation was spared to women out of regard for their modesty, as if that sentiment had its natural seat in the neck (*Sanhedrin*, 45*b*).

[15] Leviticus xx. 14, xxi. 9.

[16] *Sanhedrin*, 52*a*; cf. Michaelis, *Mosäisches Recht*, par. 235, and Saalschütz, *Das Mosäische Recht*, pp. 457-60, quoted by Castelli, *op. cit.* cap. viii.

[17] Deuteronomy xiii. 12-17.

[18] Leviticus xx. 17.

[19] xxv. 2, 3.

[20] xxv. 4.
[21] *Sifré*, ii. par. 286; *Macchath*, 13, 15*b*, 22*a*; *Corin.* xi. 24.
[22] xxi. 18, 19.
[23] *Mechiltà*, Neziquin, par. 8; *Babà Zamà*, 83*b*, 84*a*; Diodati in the commentary to Exodus xxi. 24, 25; Salvador, *Loi de Moïse*, Part I. liv. iv. chap. ii. par. 5.
[24] xxi. 24, 25.
[25] xxxv. 20-25.
[26] Deuteronomy xxv. 11, 12.
[27] Numbers xxxv. 10 *et seq.*; Exodus xix. 1 *et seq.*
[28] Maimonides, *De Regibus*, iii. 10.
[29] Deuteronomy xiii. 1, 5.
[30] Leviticus xxiv. 14-16.
[31] Deuteronomy xiii. 6-11.
[32] Deuteronomy xvii. 2-5. That by those of strangers we are to understand those unknown to the fathers, is to be gathered from the passage "diis alienis quos ignoras tu et patres tui" (Vulgate), xiii. 6.
[33] Leviticus xx. 2.
[34] Leviticus xx. 27. The text (Vulgate) says, "in quibus pythonicus vel divinationis fuerit spiritus," from the title Pythius given to Apollo on account of a serpent slain by him. Cf. Acts xvi. 16; Deuteronomy xviii. 11.
[35] Leviticus xix. 31, xx. 6; Exodus xxii. 18.
[36] xiii. 1, 5.
[37] xxiv. 14-16. This enactment was framed to meet a particular act which is recounted in the same passage. A nameless child of an Egyptian woman and of an Egyptian man had blasphemed the name of Jehovah. He was denounced and brought before Moses, who consulted the Word of God, which affixed capital punishment to such a crime (Deuteronomy xxiv. 10-16).

CHAPTER XVI

Lucius Pontius Pilate—His Spanish Origin—At the Court of Tiberius—How his Shameful Marriage caused his Nomination as Procurator of Judæa—His wife Claudia joins him in his Province—The Tenacious and Vehement Character of Pilate contrasted with that Imagined by Tradition—His Violent Treatment and Provocation of the Jews—End of his Official Career caused by his final Deeds of Violence—An Allusion of Dante.

On Friday morning He was brought before Pilate. Pilate was the sixth Roman procurator of Judæa, where no prefect was resident: he consequently performed the duties of that office. He came from Seville, one of the four cities of Bætic Spain which enjoyed the right of Roman citizenship. His father, Marcus Pontius, distinguished himself in the war of annihilation waged by Agrippa against the Cantabrians, and he commanded the troop of renegades who turned their arms against their comrades in servitude, the Asturians. When Spain had been subjected to Rome, Marcus Pontius obtained the *pilum* (javelin) as a mark of distinction, and from it the family took the name of Pilati.[1] The son, Lucius Pontius, joined the suite of Germanicus, who afterwards perished in Syria by the orders of Tiberius, and with him he fought through the German campaigns. After the peace he came to Rome in the pursuit of pleasure; and this pursuit did not bring him fair repute. But his royal marriage with Claudia earned him the dignity of procurator of Judæa.

Claudia was the youngest daughter of Julia, the daughter of Augustus, who, after being married to Tiberius as her third husband, was sent into exile by her father on account of her dissolute life. In exile she had borne Claudia to a Roman knight; and when the girl had reached about thirteen, her mother sent her to be brought up by her husband.

When she had passed her fifteenth or sixteenth year, the Spaniard Pontius Pilate arrived in Rome; and having cast a servile rather than a lustful eye on Claudia, whose upbringing and habits he well knew, and having found his way into the inner favour of Tiberius, he asked her in marriage. Tiberius gave his consent, but, says the story, when Claudia issued from the temple as a bride, and when Lucius Pontius wanted to follow her in the imperial litter, Tiberius, who was one of the twelve witnesses required by the nuptial ceremony, held him back, and drawing a paper from his bosom, handed it to him and passed on.[2]

It was the order to proceed to Jerusalem and thence to Cæsarea, as procurator of Judæa. A war-bireme, riding in the harbour, was already prepared to set sail with him. From that day six years had passed; Julia was dead. Pontius sent numerous despatches describing the Jewish population as turbulent and rebellious in the highest degree: not knowing how to be independent, they could not resign themselves to remaining slaves. Claudia asked and obtained Cæsar's permission to join her husband.

This was a most gracious concession, because in the first place it was in no manner allowed that the proconsuls should take their wives after them; later they were merely recommended not to. A senatus consult, published under the consulship of Cethegus and Varro on the motion of Messalinus Cotta, and which is tran-

scribed in the Justinian text, declared that it was better that the proconsul should go to his province without wife, but that she may go with him, wherefore it is recorded that the senate hath ordained that the proconsuls be personally responsible and subject to penalty for any transgression of their wives.[3] The rule of prohibition, or rather dissuasion, would have had no weight with Cæsar, had he not had his own particular reasons (an exception in the case of Claudia, daughter of Julia and foster-daughter of Tiberius. Nevertheless, this was the lady to whom refers the kindly and everlasting mention in the pages of the New Testament, as she who was troubled in sleep by the vision of the Innocent that was in her husband's hands.

Lucius Pontius was the son of a renegade soldier; he himself was a renegade husband. He inherited the servility of his father, who had great ambitions at the court of Rome. He was personally tainted by the most shady court intrigues. Conscious as he was of the low origin of his rank, he set about to keep it by the most strict and unremitting observance of the sole title of his intrigue-won fortunes—lavish subservience to the will of Rome. Every act of his official life is inspired by the necessary programme of adaptation, and not by the spontaneous leanings of his own nature. His character, it is true, was reft of every moral sense, if we may judge it by its deeds, and was prepared for any degree of base dissimulation if it advanced his interests. But it contained nothing of that feeble guardedness, nothing of that pusillanimous hesitancy which has become part of most people's opinion of him, and which in the apostolic tradition itself is called by the Greek name *anandria* (ανανδρία).[4] Philo of Alexandria and Flavius Josephus have left us indications of his violent, cruel, and tenacious character, capable of

boundless hatred as well as of base intrigue. Philo of Alexandria, in a disquisition which is in nowise akin to our present one, calls him a man of "stubborn and harsh quality," and assures us "that he could not bring himself to do anything that might cause pleasure to the Jews," and that "within the holy city in the palace of Herod he had dedicated *insignia* of gold not so much in honour of Tiberius as out of contempt for the Jews." [5]

Josephus relates precisely the same story about the *insignia* in two passages of his works, and gives details which go to show that his hatred towards the Jews was as great as was his love for the Romans. Pilate, after being despatched by Tiberius to Judæa as procurator, had the effigies of Cæsar, which go by the name of *insignia*, brought into Jerusalem under cover of night. This put the Jews in a great ferment. Those in the immediate neighbourhood were horrified at the spectacle. They considered that their laws were being trampled under foot, as they did not permit the erection, in the city, of even a statue.

On the lamentation of the citizens a mass of people flocked in from the country, and, hastening with one accord before Pilate, who was then at Cæsarea, they entreated him to remove the *insignia* from Jerusalem and to maintain their native laws intact. On Pilate showing himself hardened against their supplications, they flung themselves prostrate before him, and for five days and as many nights remained motionless in that position. The following day Pilate, having taken his seat on the tribunal in the great circus, and having called the people to him as if he wished to make them some reply, gave a signal to the guards to fall on them with cold steel. As the soldiers closed about them in three lines, the Jews remained speechless at

the unexpected sight. Pilate, calling out to them that he would put them to the sword unless they accepted the effigies of Cæsar, gave orders to his men to unsheathe their swords. Thereupon the Jews, as if then alone they had first understood, threw themselves upon the ground, and baring their necks, cried that they were ready to die rather than transgress the laws. Thunderstruck at their unflinching faith, Pilate commanded the removal of the *insignia* from Jerusalem.[6]

This timely and wise withdrawal on his part was perhaps prompted by the recency of his nomination, as it is certain that the affair of the *insignia* took place at the moment of his entry into the province which it was his duty to govern. Later he was unable to keep his violence against the Jews, whom he detested, in bounds. At the expense of the sacred treasury—and this fact is also related by Josephus in two passages—he brought to Jerusalem a conduit of water having its source two hundred stadia distant. The Jews had no love for a work of this nature; consequently, having assembled to the number of several thousands, they clamorously intimated to him that he should desist; a few, as is the case in a mob, gave vent to insults. Whereupon Pilate, without more ado, posted a great mass of soldiers in the dress of ordinary citizens so that they might the easier surround the discontented Jews: each soldier carried a dagger beneath his clothes. The Jews were then ordered to withdraw. They were already beginning to shriek imprecations against him when Pilate gave the preconcerted sign to the soldiers, and they laid on with all the vehemence they could muster, striking down alike both guilty and innocent. Neither did the Jews abate in their insolence, so that the poor wretches, taken without arms by men well equipped to destroy them, were left dead for the most part on the spot, while

the others escaped by flight, but wounded. And thus ended the tumult.[7]

Later on, by a fresh act of violence, Pilate was to compromise and close for ever his official career. There broke out among the Samaritans a revolt, stirred up by an impostor, who—no new feature in history—did everything to suit the caprice of the mob. He wished to gather the people together on Mount Gerizim, which was held holy by the Samaritans, and promised that he would unearth the sacred vessels there deposited by Moses. The credulous people took arms and gathered in force in order to scale the mountain. But Pilate was beforehand with them and had the road to the mountain held by men on horse and foot. These forces scared off a great number, and put the rest to flight, with the capture of many prisoners. Pilate had the most notable among these put to death. The Samaritans went to complain to Vitellius of the destruction wrought among their comrades, and put forward that they had no intention of revolting from the Romans. The Governor of Syria sent his friend Marcellus as vice-governor to Judæa and ordered Pilate to leave for Rome in order to render account to the Emperor of the charges brought against him by the Jews. Pilate, after ruling Judæa for ten years, bowed his head to the behests of Vitellius, and, having no excuse to offer, set out in the direction of Rome. But before he arrived there Tiberius had passed away.[8]

To the Spaniard who had come to Jerusalem by way of Rome, and who was also of courtly origin, there could have been nothing pleasing in the parched, arid, and colourless nature of Palestine, much less in the humble, mystic, out-at-elbows existence of its people. Their superstition, which would have nothing of Roman idolatry, which was their sole belief, their all, appeared to

him a reasonable explanation, and a legitimate one, of their disdain and opposition. He therefore detested the Jews, and his detestation was fully reciprocated. An innovator of blameless life, one that chastised His fellow-countrymen fearlessly and successfully, one who, in absolute contradistinction to all contemporary agitators, did not found His efforts at innovation on earth amid the political relations between Jerusalem and Rome, one who with calm and ready indifference left to Cæsar that to which Cæsar laid claim—such a one should have touched in Pilate a deep spring of kindly fellow-feeling. But to Pilate, cold reasoner as he was, the work of Jesus was far too lofty, far too immense, for him to feel himself impressed by it. But was not Jesus hated by the majority of his fellow-countrymen? That in itself was sufficient reason that Pilate should sympathise with Him, nay, love Him. For Pilate, without vent for the craving of his violent character, demoralised by the necessities of a position which he had won by illicit means and filled with difficulty, found the reaction and the outlet which his over-taxed patience required in using every opportunity for showing his contempt for the Jews or exercising his tyranny over them; it was with him as with those beasts of burthen which, though powerless, sometimes become vicious.

But as so often happens with those same animals, in shaking off the load of man, which wearies and distresses them, they fall into the abyss they have so often skirted but escaped; so Pilate owed his ruin to this final outburst of ill-restrained passion against the Samaritans.

In 36 A.D., two years after Lucius Vitellius, father of the future Roman Emperor Aulus Vitellius, had succeeded Pomponius Flaccus as Governor of Syria, the procurator Pilate received instructions from the new

Governor to repair to Rome in order to prove before the Emperor his innocence of dealing tyrannically with the Samaritans.[9] According to some, he was driven from Rome into exile at Vena Gallica, where his restless life was cut short.[10]

It is certain that for the part he played in suppressing the Nazarene he cannot have undergone any punishment, seeing that he remained in office several years after. And it is equally certain that the news of the bloody event must have found its way to the Court of Rome—in fact, two letters in Greek to Tiberius and a longer report to the Emperor are ascribed to Pilate.

These documents, currently known under the name of the *Acts of Pilate*, undoubtedly belong to the series of apocryphal writings of the New Testament, but they are not devoid of a certain interest, because the existence of such acts is evidenced by the oldest Fathers of the Church.[11]

Such was the man whose cowardice, made manifest in the most supreme and memorable act of injustice the world has ever known, was destined to earn him eternal infamy. To him and to no others pointed the poet as

> colui
> Che fece per viltate il gran rifiuto;

to him, the prototype of that long train of those who were never quite alive, who vainly sought glory in this world, vainly dreaded infamy; who, ever wavering betwixt good and evil, washed their hands; who, like the neutral angels of the threshold, were neither faithful nor rebellious; who are equally despised by pity and justice; who render themselves

> A Dio spiacenti ed ai nemici sui.[12]

And what man other than Pilate was ever placed so typically, in such accordance with the idea of the poet, between the Son of God and His enemies, between justice and mercy, between right and wrong, between the Emperor and the Jews, and has refused either issue of the dilemma?

Was it Celestine, Diocletian, or Esau? But they of two things chose the one; and who knows but what they chose the better? A hermitage and a mess of pottage may under many aspects be better worth than the papacy renounced by Celestine, than the empire abdicated by Diocletian, or than the birthright bartered by Esau. But Pilate refused to choose, and his refusal was great—great enough to justify the antonomasia of Dante—and it was cowardly. He refused not only the great gift of free will, in a case when a free choice was his absolute duty. When admitted, like the fallen angels, to the great choice between good and evil, he did not cleave for ever to the good, as did S. Michael, or to the evil, as did Lucifer, but he refused a power which for him was the fount of duty and which cost the life of a man and the right of an innocent. According to what has been already shown in these pages, as to the true office of Pilate, he did not merely refuse to veto an injustice, by not making himself, since he was able, the executor thereof, but he refused the act of justice itself, as he ought to have made himself the judge, although he was not. His refusal was then great—greater than the commentators ignorant of this historical detail can imagine, since they continue to seek, amidst the things and persons present to the hatred and love of Dante, him who made the " great refusal," as if the poet had not been a soul more sublime than passionate, and they think of Giano della Bella or even Vien di Cerchi. And even as the refusal of Pilate was great, the greatest of all re-

fusals, so it was cowardly. He was convinced of the innocence of Jesus; he calls him righteous; asks and asks again of his accusers, "What evil hath he done to you?" he knows that it is out of envy that they set Him in his hands; he thinks and says, "I find no fault in Him"; he feels that it is right and reasonable to set Him free, and yet he sends Him to the cross. Cowardice of cowardice! And it was displeasing, as it was bound to be, both to the followers of Jesus and his enemies, both to Cæsar and the Jews.

Before such a man Jesus was brought bound.[18]

NOTES

[1] For the derivations of *pilum*, cf. Virgil, *Æn.* xii. 121; Martial, *Epigr.* 1, xxxii.; Orelli and Henzen, *Inscr. lat.* 3574, 6852. For the political condition of Hispalis (Seville), which obtained from Cæsar the name Colonia Julia Romola or Romulensium, cf. Cæsar, *Bell. Civ.* 2, 18, 20; *Bell. Hisp.* 27, 35, 42; Strabo, 3, 141. Hispalis was also the seat of a *Conventus Juridicus*.

[2] Cf. Petruccelli Della Gattina, *Memorie di Giuda*, vol. i. cap. ii.

[3] L. 4, par. 2, D. *De off. Procons. et Leg.* 1, 16. Similar provisions, which we meet with in the same authority, ordained that the proconsul (and the procurator was subject to the same regulations) should enter his province by the usual route, and should not neglect to first set his foot in the accustomed city, as the provincials assigned great importance to the usages and prerogatives. Thus the proconsul of Asia was to arrive by sea and land first at Ephesus. If he arrived in a populous city or chief-town, he was to submit to the inhabitants rendering him honours and to hearken with benignity to their compliments (l. 4, pars. 4 and 5; i. 7).

[4] For the general opinion, see Didon, *Jésus-Christ*, ch. x.

[5] *Leg. ad Caj.* ed Hoesch, p. 1034. Philo calls him *pervicaci duroque ingenio* and attributes to him *venditas sententias, rapinas, clades, tormenta, crebras cædes indemnatorum, crudelitatem sævissimam*,

[6] *De bello jud.* lib. ii. cap. ix. The same story is repeated in practically identical terms in the *Antiq. jud.* xviii. iv. 1.

[7] Josephus, *Antiq.* xviii. iv. 2. It is given to be understood that the opposition was directed against the employment of the sacred treasure, called by the Hebrew word "corbona." Cf. *De bello jud.* ii. ix.

[8] Josephus, *Antiq.* xviii. v. 2.

[9] Cassiodorus, *Chronic.* ad. ann. Chr. 34; Orosius, *Hist.* lib. vii. cap. vi. See in this chapter the account of his violence to the Samaritans. For the coming of Lucius Vitellius, see cap. x. Cf. Mommsen, *Roman Provinces from Cæsar to Diocletian*, chap. xi.

[10] Cassiodorus and Orosius, *loc. cit.*; Eusebius, *Hist. eccles.* ii. 7. Eusebius refers to the suicide as "providential," and is therefore open to suspicion; he remarks that "it was impossible that a minister of such impiety should remain unpunished."

[11] Fabricius J. A. *Codex Apocryphus Novi Testamenti* (Hamburg, 1719-1743), vol. i. pp. 237, 239, 298, vol. ii. p. 456; Tertullian, *Apol.* 5; Justin Martyr, *Apol.* i. pp. 76, 84; Chrysostom, Homil. viii. in Pasch; Altman, *De epist. Pilati ad Tiberium*; Van Dale, *De orat.* p. 609; Winer, *Biblisches Realwörterbuch*, art. *Pilatus*. Epistola i.: "Pontius Pilatus Clauido salutem. Nuper accidit et quod ipse probavi Judæos per invidiam se suosque posteros crudeli condemnatione punisse. Denique cum promissum haberent Patres eorum quod illis Deus eorum mitteret de cœlo sanctum suum qui eorum Rex merito diceretur, et hunc se promiserit per virginem missurum ad terras: istum itaque me Præside in Judæam Deus Hebræorum cum misisset, et vidissent eum cœcos illuminasse, leprosos mundasse, paralyticos curasse, dæmones ab hominibus fugasse, mortuos etiam suscitasse, imperasse ventis, ambulasse siccis pedibus super undas maris, et multa alia fecisse, cum omnis populus Judæorum eum filium Dei esse diceret, invidiam contra eum passi sunt Principes Judæorum, et tenuerunt eum mihique tradiderunt, et alia pro aliis mihi de eo mentientes dixerunt, asserentes istum Magum esse et contra legem eorum agere. Ego autem credidi ita esse, et flagellatum tradidi illum arbitrio eorum. Illi autem crucifixerunt eum et sepulto custodes adhibuerunt. Ille autem militibus meis custodientibus die tertio resurrexit: in tantum autem exarsit nequitia Judæorum, ut darent pecuniam custodibus et dicerent: Dicite, quia discipuli ejus cor-

pus ipsius rapuerunt. Sed cum accepissent pecuniam, quod factum fuerat tacere non potuerunt. Nam et illum surrexisse testati sunt se vidisse, et se a Judæis pecuniam accepisse. Hæc ideo ingessi, ne quis aliter mentiatur, et æstimet credendum mendaciis Judæorum." Epistola ii.: "Pilatus Tiberio Cæsari salutem. De Jesu Christo quem tibi plane postremis meis declaraveram, nutu tandem populi, acerbum, me quasi invito et subticente, supplicium sumptum est. Virum hercle ita pium ac sincerum nulla unquam ætas habuit, nec habitura est. Sed mirus extitit ipsius populi conatus omniumque scribarum et seniorum consensus, suis Prophetis et more nostro Sybillis præmonentibus, hunc veritatis legatum crucifixere, signis etiam super naturam apparentibus, dum penderet, et orbi universo Philosophorum judicio lapsum minantibus. Vigent illius discipuli, opere et vitæ continentia Magistrum non mentientes, imo in eius nomine beneficentissimi. Nisi ego seditionem populi prope æstuantem pertimuissem, fortasse adhuc nobis ille Vir viveret. Etsi tuæ magis dignitatis fide compulsus quam voluntate mea adductus pro viribus non restiterim sanguinem justum totius accusationis immunem, verum hominum malignitate inique in eorum famen (?), ut Scripturæ interpretantur, exitium pati et venundari. Vale. Quarto Nonas Aprilis" (from Fabricius, *op. cit.* vol. i. pp. 298-301). "Pontentissimo, Augustissimo et invicto Imperatori Tiberio Pilatus Præfectus orientis. Cogor hisce literis tibi, Pontentissime Imperator, significare metu licet plenus ac terrore, quid nuperi temporis impetus tulerit, et jam colligo inde quid dienceps postea sit futurum. In hujus cui præsideo provinciæ urbe Hierosolymis universa multitudo Judæorum mihi tradidit hominem cui nomen Jesu, et multorum eum reum egit criminum, sed quæ firmis argumentis probare non potuerunt. In hoc tamen conspirarunt omnes, quod Jesus sabbato feriandum non esse docuisset. Nam multos sanavit illa die, cœcis visum restituit, claudis incedendi facultatem; mortuos suscitavit, mundavit leprosos, curavit paralyticos, qui plane debiles essent, neque vires ullas corporis aut nervorum firmitatem haberent: his omnibus non modo vocis usum et armoniæ precipiendæ, et facultatem ambulandi et currendi reddidit solo verbo præcipiens infirmis, sed et aliud quid majus effecit quod Dii nostri præstare non possunt. Quatriduanum mortuun solo verbo et compellato tantum ejus nomine suscitavit,

illumque cujus sanies jam a vermibus corrumpebatur, et qui canis instar fœtebat, videns in sepulchro positum jussit currere, nullatenus amplius similem mortuo sed ex sepulchro velut ex thalamo sponsi prodeuntem suaveolentissimum. Præterea mente alienatos et agitatos a dæmoniis, inque desertis degentes bestiarum instar ferarum et cum serpentibus enutritos, iterum mites placidosque reddidit, soloque verbo ut urbes rursus incolerent et ad se redirent effecit, adesse jussis hominibus mente et viribus integris ac nobilibus qui cum illis comederent, et hostes jam illos ac debellatores perniciosorum a quibus vexati fuerant dæmonum viderent. Fuit et arida homo manu, sive potius dimidia corporis parte veluti in saxum mutata, qui præ macilentia vix hominis formam referret. Hunc quoque solo verbo curavit et sanitati restituit. Tum mulier sanguinis profluvio laborans exaustis sanguinis fluxu arteriis venisque vix hærebat ossibus mortuæ simillima et destituta voce, cui medici illius loci mederi neutiquam poterant. Hæc clam, cum prætereunte forte Jesus ab ejus umbra vires cepisset, a tergo vestis eius fimbriam tetigit, eademque hora repleta sanguinis et a malo suo liberata fuit, quo facto, festinato gressu in civitatem suam Capernaum accurrit, et sex dierum iter absolvere potuit. Atque ista majora a Jesu quam a Diis quos nosmet colimus facta miracula exposui, prout statim memoria cogitanti suggessit. Hunc Herodes, Archelaus, Philippus, Annas et Caiphas una cum toto populo mihi tradidere, magno super ejus inquisitione facto adversus me tumulto. Jussi igitur prius flagellatum in crucem agere, licet nullam causam in eo maleficiorum criminumque reperi. Simul autem crucifixus est, simul tenebræ universam terram opplevere, sole per meridiem obscurato et astris comparentibus, dum interim inter stellas desideraretur nec splenderet luna sanguine veluti suffusa atque deficiens: tunc ornatus omnis rerum terrestrium sepultus erat, ita ut præ tenebrarum densitate nec ipsum a Judæis posset conspici quod ita vocant sanctuarium: terræ vero dehiscentis chaos et dejectorum fulminum strepitus percipiebatur. Inter hunc ipsum terrorem e mortuis suscitati videndos se præbuere, ut ipsi Judæi testes affirmarunt, in his Abraamus, Isaacus, Jacobus, duodecim Patriarchæ, Moyses et Joannes, quorum pars ante ter mille et quingentos ut ajunt illi annos diem obierunt. Et plurimi quos in vita etiamnum noverant, jam vero plangentes bellum quod instet propter ipsorum im-

pietatem, Judæorumque et legis ipsorum eversionem quiritantes. Tremor ex terræ motu duravit a sexta hora diei parasceves usque ad nonam. At die prima sabbatorum facto mane sonus de cœlo auditus est, cœlumque lumine perfusum septuplo tanto quamtum aliis solet diebus. Die tertia noctis sol visus est incomparabili splendore prolucens, et quemadmodum fulgura in tempestate subito promicant, sic viri lucida veste et gloria magna induti apparuerunt cum innumerabili multitudine clamantium, et voce magni tonitrui instar proloquente: *Christus crucifixus resurrexit.* Et qui sub terra apud inferos servitutem servierant, prodierunt in vitam, hiatu terræ tanto ac si fundamenta nulla essent, ita ut aquæ ipsæ subter abyssum apparerent, dum mortuis plurimis resuscitatis obviam veniebant cœlestes spiritus corpore præditi. Qui vero suscitaverat mortuos omnes, et inferna vinculis constrinxerat Jesus, Dicite discipulis, inquit, quod antecedet vos in Galilæam, ibi eum visuri estis. Per totam porro noctem lumen istud lucere neutiquam desiit. At Judæorum non pauci voragine terræ absorpti sunt, ut altera die desiderarentur multi Judæi ex iis qui in Christum dixerant. Aliis qualia non quisquam nostrum vidit Phasmata sese conspicienda obtulerunt. Neque una Judæorum substitit Hierosolymis Synagoga, siquidem eversæ sunt omnes. Cæterum qui sepulchrum Jesu custodiebant milites a conspectu Angeli conterriti, metuque ac terrore maximo extra se positi abierunt. Hæc sunt quæ præsenti tempore gesta comperi et ad Potestatem tuam referens, quæcumque cum Jesu Judæi egerunt, Numini tuo, Domine, misi" (from the same work: vol. ii p. 457 *et seq.*). Let us leave aside curiosity; the forgery could not well be more frivolous or evident.

[12] *Inferno*, iii.; cf. Pascoli, *Colui chi fece il gran rifiuto*, in *Marzocci*, ann. vii. no. 27. Pascoli identifies Pilate in the allusion of Dante, not only by the arguments here given, but also by others of a theological description. "Pilate was the instrument of that Redemption by which the gift (of free will) was conferred again; Pilate, who from the Redeemer might have known *quid est veritas* and waited not for an answer; Pilate, who recognized in Jesus one that was just, the Son of God, the Christ, and let Him be crucified; Pilate . . . oh, thought of Dante dizzily sublime, that there in the entry to the world of Death he should see running, running, ever running behind the cross,

him who raised it. Who can be the prototype of those in vain baptised in the Cross of Christ, if it is not he who more than any other, half-way betwixt heathendom and Christendom, he that was a pagan but knew Christ, he that was a Christian but let Him be crucified?"

[13] Strauss (*Vie*, par. 131), not for a moment interrupting his comparative exegesis of the Gospel texts, notes that, according to S. Matthew, Jesus was bound when he was brought to the Prætorium, while according to S. John He was bound immediately after His arrest. But as a fact, S. Matthew does not say that Jesus was bound then; he says "bound," which is equivalent to "having been bound": "they led Him away and delivered Him up to Pilate the governor" (*et vinctum adduxerunt eum*, xxvii. 2. Vulgate). When and where he was bound is not mentioned, Besides, as to the arrest, he does not speak very differently from S. John: "Then they came and laid hands on Jesus, and took Him" (xxvi. 50). Thus, if S. John tells us that the prisoner was bound from the first, while S. Matthew describes Him as still bound at the time of being brought to the Prætorium, this constitutes no contradiction but rather a confirmation, indicating the continuation of the same circumstance. Moreover, nothing could be more probable or more consistent with the practice of criminal procedure, than that Jesus should have been twice bound, once at the time of arrest, and again when He went forth, after having been unbound during His stay in the Sanhedrin. The dignity of apparent freedom has often been remarked in the prisoner. See Art. 273 of the Codex of Italian Criminal Procedure.

CHAPTER XVII

In which it is shown that the Reputed Judges of Jesus acted as Prosecutors before Pilate—Scruples of Levitic Contamination close the Gate of the Prætorium to them—Better Determination of the Day upon which these Occurrences took place—Pilate's Tribune—How an Accusation but not a Condemnation upon the Part of the Jews is spoken of—How the Charge of Blasphemy was not Maintained, but the Already Abandoned Charge of Sedition was once more pressed—The Examination of Jesus before Pilate—How Pilate concluded that he found no Crime in Him.

Those that went with Him were His judges.[1] In like manner the humbler and more greedy of gain among the craftsmen are they that bring their work for payment as soon as it is done. At the gate of the Prætorium they were compelled to halt, for within the walls of the Roman procurator's palace they would have been polluted by Levitic contamination. They who thrice, yea four times, in a single night had violated the laws in their loftiest and sternest essence scrupled to break a mere ritual regulation.

This regulation consisted in the prohibition to eat fermented food on the first and on the seventh day of the feast of the Passover—a prohibition which perhaps derived its origin from the recollection that the Hebrews when driven out of Egypt, had no time to ferment their dough, and therefore consumed it before it had been leavened.[2] This pious scruple on the part of those perfervid zealots that accompanied Jesus, and which is at-

tested by the fourth Evangelist,[3] leads us to confirm the opinion that the trial and execution of Jesus took place on the day preceding the Passover, on the day of preparation (παρασκευή), instead of upon the Passover itself, as the Synoptics would induce one to maintain. The question as to the death of Jesus is a difficult one, but one of no great importance in the present matter. It is certain that S. Matthew, S. Mark, and S. Luke, from what they say in reference to the Last Supper, and not from their allusions to the actual day of death, make that day coincide with the Passover.[4] S. John, on the contrary, makes clear reference to the preceding day, not only in calling attention to the scruple of the Jews against entering the Prætorium, but also by an explicit affirmation—"It was the preparation of the Passover."[5] And this affirmation must of necessity be preferred. On the other hand, according to S. Luke the day on which Joseph of Arimathæa presented himself before Pilate and obtained from him the body of Jesus crucified, in order to convey it away to the sepulchre hewn in the rock, was the day of the preparation, and the Sabbath already was dawning.[6] Thus at break of day on the Sabbath Jesus was already dead. According to S. Mark, the priests and the scribes were already resolved two days before the Passover to take Jesus with subtlety and kill Him, but they said, "Not during the feast, lest haply there shall be a tumult of the people."[7] Hence neither the arrest nor the execution can have taken place on the Passover. And in truth the whole array of facts concerning that memorable day points to the conclusion that it was not a feast-day: for work is done and judgments are given, loads are carried and help is given in the carrying out of condemnations.

We may therefore with safety rest assured that the day was the Friday preceding the Paschal Sabbath.[8] Now

in that year the Sabbath fell, as S. Luke and S. John attest, on Saturday, Nisan 15, lasting from sunset on the 7th till sunset on the 8th of April. Thus Jesus was arrested on the evening of the Thursday preceding April 6, when, as the sun was already set, Nisan 14 had begun. And since the Hebrew day lasted until sunset on the 7th, thus not only the arrest, which took place on the beginning of Nisan 14—that is to say, on the evening of April 6—but also the second part of the process, the trial before the Sanhedrin which was held after midnight, the transfer before Pilate and the execution, took place on April 7, corresponding always to Nisan 14.[9]

The accusers, therefore, from dread of Levitical contamination remained outside the Prætorium. Jesus, however, was made to enter, according to the fourth Evangelist; so that Pilate in order to speak to the Jews was forced from time to time to go outside and to come in again to speak with the Accused.[10] It would seem at the first glance that, according to the Synoptics, Jesus, Pilate, and the accusers were together in one place, in the open air. But if one looks well into the context of their account, it is impossible to deduce any such conclusion. Because S. Matthew makes Pilate ask Jesus, "Hearest thou not how many things they witness against thee?"[11] and S. Mark, "Behold how many things they accuse thee of,"[12] these two expressions do not, in my belief, exclude the supposition that Jesus could hear within what was being cried without, or that Pilate should have repeated from time to time the accusations, as in fact S. John declares. S. Luke does not define the matter at all, and it is after all of little consequence. It does not appear to me of any use arguing as does Strauss,[13] in the face of so simple a reconciliation of facts as is that here given, that S. Matthew insists upon the placing of Jesus outside the Prætorium, relating, as

he does, that He was shortly afterwards taken inside;[14] this detail took place, moreover, after Pilate, according to the same Evangelist, had released Barabbas, had had Jesus scourged, and had handed Him over to the Jews,[15] whereas the flagellation at least must have been performed in the Prætorium. The further difficulty which has been raised by the Louisbourg biographer does not appear to me to have any great value. In his criticism of S. John's version he remarks that if the examination took place inside the Prætorium and the Jews remained outside, it is not clear by whom the proceedings were heard and reported.[16] In the first place it is not said that if the Jews remained strangers to the fact, therefore all others who were attached to the person of the Governor remained strangers to it. Moreover, the supposition is not excluded that the Governor himself may have reported what occurred. It is generally admitted that Pilate sent an account of the execution to Rome, as has already been maintained.[17] There is besides no reason which can compel us to believe that Pilate observed secrecy as to what passed between him and Jesus in the Prætorium.

This place, in the Latin tongue, signified the seat which the Roman prætor assumed for the administration of justice. In the Roman provinces, as in that of Judæa, this name, which had passed into the Greek and even into Syro-Chaldaic languages, denoted the palace of the Governor. Pilate occupied the palace of the Herods on the hill of Zion, which we know from Flavius Josephus had been occupied by his predecessors, at least by Florus Gessius, the successor of Albinus.[18] Pilate's tribune (in Greek βῆμα) was in the open air, on the spot called Gabaatha (in Greek λιθοστρωτὸς) from the kind of pavement formed by the stratum of the soil.[19] I do not know how Lücke comes to doubt this fact, since Josephus

affirms it on two distinct occasions when Pilate mounts his tribune, once at Cæsarea and once actually in Jerusalem.[20] Moreover Roman trials were public; and it was not considered possible to better preserve publicity than by administering justice under the open sky.

The priests and elders of Jerusalem, to the confusion of any who imagine that they came from the holding of a regular trial, do not appear here before the Governor in the light of judges merely craving the carrying out of their sentence. From the first words which they exchange with Pilate it may be gathered, it is true, that they had some intention of gaining the ratification of a deed already accomplished. But for all that they never mention any sentence, and the Governor never mentions aught but an accusation.

As they arrived without on the steps of the Gabaatha he asked:

"What accusation bring ye against this man?" And they answered:

"If this man were not an evil-doer, we should not have delivered him up unto thee."

Never yet had they straightened their backs before foreign authority, cringing subjects as they were. Evidently hatred had kindled within them a short-lived, fatuous courage.

Pilate immediately crushed it.

"Take Him yourselves and judge Him according to your law."

And the Jews:

"It is not lawful for us to put any man to death."[21]

It would be quite erroneous to gather from Pilate's retort that the Governor recognised in the Jews that capital jurisdiction which had hitherto been combated. People interpret his retort after two fashions: either the Governor granted them in this instance the faculty of

carrying out capital punishment, or else he proposed to them one of the minor penalties of which they preserved the right.[22] The first interpretation is inadmissible, because if the Jews had been able to understand that the Governor conceded them the power of executing the sentence they had already pronounced, they would have taken him at his word, inasmuch, be it carefully noted, as the disability, which they advanced, of being unable to put to death, referred, and referred almost reproachfully, to the power usurped by Rome and not to any prohibition in the Mosaic law, which we have seen was only too steeped in the blood of capital pains and penalties. On the other hand the second interpretation is admissible because jurisdiction of capital offences had been withdrawn from the Sanhedrin, but not that of minor crimes.[23] In any case the final reply of the Jews, "It is not lawful for us to put any man to death," is a clinching argument in refutation of the common error; for no one can believe that "put to death" (*interficere*) merely refers to the carrying out of the capital punishment and not to the pronouncing of a sentence of death.

To me, unless I am very greatly mistaken, the retort of Pilate appears in complete accordance with his false, cynical soul, evilly disposed towards the Jews even to the point of sarcasm, the soul which later disclosed itself in his obstinate refusal to alter the inscription affixed to the cross; and it is this that makes me believe that Pilate wished in these words to heap ridicule on the Jews, as if he invited them to exercise a prerogative of which the Roman Empire, at that moment and at that place represented by himself, had despoiled them. By another train of argument Strauss arrives at the same conclusion. He, however, entirely neglects the question of a capital jurisdiction fallen into ruin, propounding

the following dilemma: either Pilate did not think of an offence involving death, or else he wished to make mock of the Jews.[24]

And if it is permissible to adduce the independent insight of a poet in support of a matter of purely historical research, I would recall that Shakespeare, in his *Merchant of Venice*, has imagined a similar way of turning a Jew to ridicule because he was impotent to carry the law into execution. The Jew Shylock, in stipulating a usurious loan, inserted the clause that if on falling due the debt should not be paid, the debtor must allow a pound of flesh to be cut from his body. On the expiration of the bond the debt was not discharged, and Shylock then appeared before the Doge to claim the fulfilment of the compact, the pound of human flesh. But a girl, the friend of the debtor, Portia, donned the habit and speech of a lawyer in his defence, and called triumphantly to the Jew: "The bond allows thee a pound of flesh but not a drop of blood. Avail thee of thy law: take thy pound of flesh, but if in cutting it thou spill one drop of Christian blood, by the law of Venice thy lands and goods shall be confiscated to the enrichment of the State."[25]

As he in no way recognised the highest judicial power in the case of the Jews, Pilate certainly did not intend with respect to that jurisdiction to surrender it in neglecting, from the very moment that the Accused was brought before him, the complete and regular course of proceedings the responsibility for which must rest entirely with himself and be carried out from beginning to end in accordance with the safeguards of legal forms and requirements of evidence. On the other hand, the Governor did not summon a single witness, did not verify any evidence, did not set before himself any investigation as to innocence or guilt, nay, as we shall see, he was

satisfied as to the innocence of the prisoner and yet decided in favour of guilt and condemnation.

Meanwhile the so-called judges of the Sanhedrin were continuing to play the part of prosecutors. After the failure of the demand first launched that the Governor should approve of their reason for giving up the Accused, they quickly fell to making charges which are in absolute contradiction with the supposed condemnation, or rather with the real solemn sentence pronounced within the walls of the Sanhedrin.

They began by saying, "We found this man perverting our nation and forbidding to give tribute to Cæsar, and saying that He Himself is Christ a King."[26] Two lies in four words. Because the instigation to refuse the fiscal due to Cæsar was as unfounded as the contrary example given by Jesus was true. And if it was true that He had called Himself Christ, it was false that He perverted the nation and proclaimed Himself King.[27]

It is therefore noteworthy that in the short passage from the Sanhedrin to the Prætorium the whole method and language of the accusation changed. But a little time before, at the hearing before the Sanhedrin, the allegation of sedition had been finally dismissed, as all proof of the pretended destruction of the temple had broken down and the guilt of Jesus had been declared upon the charge of blasphemy alone, a charge purely and exclusively of a religious character. Here, at the entrance of the Prætorium, the charge of blasphemy was abandoned and that of sedition taken up again. Evidently the Jews knew the weak side of Pilate's character —sceptical towards their beliefs, timorous and cowardly when it was a question of the wish or advantage of Rome. But he did not feel that he was being cajoled or flattered by this.

He asked Jesus rather out of astonishment than by

way of reproof: "Hearest Thou not how many things they accuse Thee of," and again "Art Thou the King of the Jews?" "Sayest thou this thing of thyself," answered Jesus, "or did others tell thee of Me?" [28]

He was right in wishing first to know whether this new charge was advanced by the Romans or the Jews, in order that He might settle in what light He should regard it, and in order that He might return a fitting answer. For, as to being a king in the heathen sense, His answer could only be a determined negative. But on the other hand, "King of the Jews" could be construed either in a political or a religious sense, and consequently the answer depended on the quality of the person addressing the question. If addressed to him by the Roman Governor, the question had a political meaning. If the question was provoked by the Jews, it could have nothing but a religious signification, and in this case Jesus could not reject the title of King without denying His mission as Messiah.

Pilate appears to spurn the bold theory that the unresisting prisoner before him, seemingly careless of His position as a candidate for execution, could have deemed Himself King as against the infinite power of Rome, and He answers:

"Am I a Jew? Thine own nation and the chief priests delivered Thee unto me: what hast Thou done?"

Then Jesus replied:

"My Kingdom is not of this world; if My Kingdom were of this world, then would My servants fight, that I should not be delivered to the Jews; but now is My Kingdom not from hence." [29]

This answer was the strongest, justest, and most safe defence, since it could not be reduced to a gratuitous rejoinder, but bore in it a claim that could not be rejected, and at the same time a resolute defiance: it called

for some proof of the mundane aspirations of the innovator. And were the accusers courageous enough to essay such a proof? The Governor did not even think of demanding such a proof: too well he knew the mad fevered passion of their superstitious fury.

He thought better to press his prisoner with questions.

"Art thou a King then?"

And the prisoner answered:

"Thou sayest that I am a King. To this end have I been born, and to this end am I come into the world, that I should bear witness unto the truth. Every one that is of the truth heareth My voice."

And the Governor remarked, for it was scarcely a question:

"What is truth?"

Again he went outside and said to the Jews:

"I find no crime in Him." [30]

The remark he had let fall, without awaiting a reply, contained no desire to know the truth. It was but the natural putting into words of that senseless, arrogant scepticism which so often characterises the man in power, and which appears to him practical and scientific, but is in reality false and clumsy; the scepticism which admits of no inner yearnings, no lofty inspirations soaring above and beyond the vulgar circle of legality.

The accusers, when they saw the Governor reappear upon the tribune, when they felt that the case for the prosecution was on the point of collapsing in an acquittal, burst into fresh flames of fury and pressed forward with new falsehoods:

"He stirreth up the people, preaching throughout all Judæa, and beginning from Galilee." [31]

This last word was as good as an inspiration to Pilate's diplomatic cunning.

Notes

[1] S. Matthew xxvii. 11, 12; S. Mark xv. 1; S. Luke xxiii. 1; S. John xviii. 28.

[2] Exodus xii. 14 *et seq.*, 39. Castelli disagrees with this as being the original meaning of the rule, but he furnishes no other explanation (*La leg. del pop, Ebr.* caps v. and ix. pp. 146 and 263). The rites observed at the Jewish Passover were moreover two in number: the first consisted in the sacrifice of a lamb, which was immolated towards evening on the 14th day of the first month of spring, and of which the roasted flesh was eaten together with unleavened bread and bitter herbs; the second was the feast of seven days, whereby the first and seventh were to be kept holy with the obligation to abstain from all fermented food.

[3] S. John xviii. 28 *et seq.*

[4] S. Matthew xxvi. 2, 17-19; S. Mark xiv. 12-17; S. Luke xxii. 7-11.

[5] S. John xix. 14.

[6] S. Luke xxiii. 54. One cannot read the "tomb that was hewn in stone" of this passage without recalling the *arca scavata* of Manzoni (*Resurrez.*)—a faithful and elegant rendering of the great biblical idea, and which nevertheless elicited from the last of the purists the pedantic remark, "Vedestu' mai un' arca non iscavata?"

[7] S. Mark xiv. 1, 2.

[8] Cf. Farrar, *Comment. to the Gospel of S. Luke*; and Bonghi, *Vita*, appendix vi.

[9] See chap. ix. note 2.

[10] S. John xviii. 28–40.

[11] xxvii. 13.

[12] xv. 4.

[13] Par. 128.

[14] xxvii. 27.

[15] xxvii. 26.

[16] Par. 128.

[17] See chap. xvi. note 11.

[18] *De bello judaico*, II. xiv. 7.

[19] S. John xix. 13; Strauss, *Vie*, par. 131 note; Renan, *Vie*, chap. xxiv.

[20] *De bello jud.* II. ix. 2 and 3: *cf.* Lücke in Strauss, *op. cit.*

[21] S. John xviii. 29-31. Didon, following the general opinion, says: "These proud judges did not admit that their sentence could be invalidated or disputed, and all they required of the Governor was an immediate execution, because the case being clear and decided by them, there was nothing for him to find fault with" (*Jésus-Chr.* ch. x.). But what a sentence and what an execution! The so-called judges demanded only that it should not be believed that they had brought an unfounded charge of crime; and this is why they began by crying, "If this were not an evil-doer," etc.

[22] Jansenius, *Comm. in Conc.* cap. cxii.

[23] See chap. x.

[24] *Vie*, par. 131. The first of the two alternatives of the dilemma coincides with the second hypothesis of Jansenius referred to above.

[25] *Merchant of Venice*, Act I. sc. iii., Act IV. sc. i. *et seq.* Thus also Pilate said, "Take Him yourselves and judge Him according to your law."

[26] S. Luke xxiii. 2.

[27] See chap. v.

[28] S. John xviii. 33, 34. One cannot understand the difficulty of the commentators with regard to this sudden question addressed, according to the fourth Evangelist, by Pilate to Jesus. In S. John it is true the question is unexpected, sudden, and unprovoked; but it is not so according to the version of the other Evangelists, by whom S. John's account should be supplemented. See *e.g.* S. Luke xxiii. 2.

[29] *Ibid*, 35, 36.

[30] S. John xviii. 37, 38.

[31] S. Luke xxiii. 5.

CHAPTER XVIII

From Pilate to Herod—From Herod to Pilate—How the Tetrarch could not have had Jurisdiction over Jesus, although a Galilean—Herod questions the Prisoner, who does not answer—Meaning of His Silence—How the Scribes and Priests repeated the Charges before Herod—Jesus is sent back to Pilate in a White Garment—The Second Expedient of a Simple Chastisement—Its Failure, and the Recourse of the Governor to a Third Expedient.

"GALILEE?" must have thought Pilate. "If the prisoner is a Galilean, I wash my hands of him henceforth."

And this was no mere airy thought on his part. There happened to be at that moment in Jerusalem the Governor of the kingdom of Galilee and of Perea. This was Herod Antipas. He was a crownless king entirely given up to the licentious pleasures which had led him to have S. John the Baptist put to death. It appears that as the Passover came round he was wont to go up to Jerusalem, no doubt in search of distraction, and certainly out of no feeling of piety. The Governor, on the other hand, had his official residence in Cæsarea, the political capital of Judæa, and he was in the religious capital for the fulfilment of his duties. He there performed the customary acts of devotion and preserved public order.

At the mention of Galilee, therefore, the Governor asked the prisoner whether He were from that country, and learning that He was, handed Him over to the Tetrarch, who had criminal jurisdiction over his sub-

jects.[1] This was the first of those miserable subterfuges which Pilate resorted to in his desperate attempt to avoid the responsibilities of his office, all of them were destined to prove ineffectual. This particular evasion could not well have been more clumsy or more unfortunate from the point of view of either Mosaic or Roman law. In the judicial organisation of the Jews there were tribunals, as we have already said, of three degrees. The first was the Grand Sanhedrin, resident at Jerusalem. It possessed supreme competence. In the cities containing a minimum of a hundred and twenty adult male inhabitants were instituted the minor Sanhedrim. The third degree consisted of inferior tribunals filled by three judges.[2] Hence it is manifest that if Jesus could be tried by a Hebrew tribunal, the sole tribunal competent to try Him was the Grand Sanhedrin of Jerusalem. This court judged Him for better or for worse, so that the trial before Herod must have been the repetition of an abuse. In virtue of what exception could there have been resort to the Tetrarch of Galilee and Perea, if those regions, like the whole of Syria, were under Roman hegemony? In this case, to the defect of jurisdiction was joined the want of competence, because, under the supposed but not admissible jurisdiction of the Hebrew authorities, the Grand Sanhedrin alone would have been competent to try the case. Moreover, the improvised competence of Herod would suppose a criminal jurisdiction which at the time of these events was no longer conferred upon the kings. Such a jurisdiction is doubtful and disputed. It was, at all events, curtailed at the time of the government of the kings. The biblical chronicler informs us, in fact, that David himself elected from amongst the Levites six thousand officers of justice, while King Jehoshaphat instituted judges in all the cities, and at the same time a species of supreme tribunal at Jerusalem.[3] Thus,

even if we set aside the question as to whether Herod Antipas really was or was not a king with all the attributes of royal power, he had neither the jurisdiction nor the competence necessary to judge the Galilean Jesus. It would have been curious to see with what forms of a regular tribunal, momentarily established at Jerusalem, he could have carried out a criminal trial or put a sentence of death into execution.

According to the system of Roman procedure, jurisdiction resided in the Governor, not only by right of conquest of war, but competence was also vested in him on the ground of territoriality, always remembering the character of the offence alleged against Jesus. His prosecutors insisted tenaciously upon His answering to a charge of *continuous* sedition, as lawyers call it. This offence had been begun in Galilee and ended in Jerusalem —that is to say, in Judæa. Now it was a rule of Roman law, which the procurator of Rome could neither fail to recognise nor afford to neglect, that the competence of a court territorially constituted was determined either by the place in which the arrest was made, or by the place in which the offence was committed.[4] Jesus had been arrested at the gates of Jerusalem; His alleged offence had been committed for the most part, and as far as all the final acts were concerned, in the city itself and in other localities of Judæa. In *continuous* offences competence was determined by the place in which the last acts going to constitute the offence had been committed.[5] Thus no justification whatever existed for determining the court with regard to the prisoner's origin. But this investigation upon a point of Roman law is to all intents superfluous, because either Pilate, when he thought of Herod, intended to strip himself of his inalienable judicial power, and in this case he ought to have respected the jurisdiction and competence of the Grand Sanhedrin

and not to have busied himself with a conflict as to cognisance which should only have been discussed and resolved by the Jewish judicial authorities; or else he had no intention of abdicating his power, and in this case he ought never to have raised the question of competence between himself, Governor of Judæa, and Herod, Regent of Galilee, but between himself and the Roman Vice-Governor of Galilee, his colleague if there had been such an one. It is only between judges of the same judicial hierarchy that a dispute as to territorial competence can arise. Between magistrates of different States there can only exist a contrast of power and jurisdiction.

The act of Pilate cannot then be interpreted as a scruple of a constitutional character. It is but a miserable excuse for his irresolution, a mere endeavour to temporise; there may have been in it a touch of deference and adulation towards the Tetrarch, with whom the restless Governor had, up to then, been at enmity—perhaps on account of his massacre of the Galileans, whose blood Pilate had mingled with the sacrifices.[6] If this was not the object of this clever move, it was at all events the result, for from that day Herod and Pilate became friends.[7] Herod had long desired to see Jesus, of whom he had heard so many stories. He was exceedingly rejoiced on seeing Him led down from the tower of Antonia to the palace of the Asmonean princes. He was inquisitive like a man entirely given over to pleasure. He hoped to witness the working of some miracle as he would have looked on a new and marvellous court spectacle.

And he questioned Him in many words; but He answered him nothing.[8]

Strauss, who has the greatest difficulty in believing the episode of the sending before Herod, merely because it is vouched for by S. Luke and passed over by the remaining Evangelists, is astonished at the prisoner's

silence. "How comes it," asked Strauss, "that Jesus, not only the Jesus without sin of the orthodox school, but also the Jesus who bowed to the constituted authorities, who says 'Give unto Cæsar that which is Cæsar's'—how comes it that He refuses the answer due to Herod?"[9] It might first of all be remarked that Herod is not Cæsar, but such an answer would be as sophistical as the objection to which it replies is specious. In reality the attitude of Jesus towards the constituted authorities was not one of subservience, but one of pure and simple indifference, as His earthly mission aimed neither at overriding nor replacing them. Besides, the recognition of an authority does not entail any cringing to the abuse which is made of it. Moreover, Jesus injured Himself and not the authority by refusing to answer. Who knows what the questions were which the Tetrarch put to the Galilean? His silence is easily explained by the unseemly nature of the question, which according to Strauss "displayed simple curiosity."

The authenticity of the incident is not impaired by the fact that it is only recorded by S. Luke, while it is neither denied nor excluded by the other Evangelists. At the same time it is confirmed by old tradition and is to be met with in Justin.[10] Certain over-subtle critics have discussed the question as to whether Pilate delivered Jesus by a postern to those who escorted Him before Herod, so that S. John, being unable to witness the occurrence, did not report it.[11] The matter is unimportant. Such a supposition cannot stand in face of the doubt whether the author of the Gospel known as S. John's was really S. John or another apostle who happened to be near the main gate of the Sanhedrin. It also fails to answer the question why S. Matthew and S. Mark do not mention the episode. Even if they were themselves absent, they must have been informed about the

matter, which was of public knowledge and at which the same prosecutors were present. The only explanation of the silence of the three Evangelists is that they did not ascribe such importance to the event as to consider it requiring mention.

Before Herod it was still the scribes and priests who repeated the charges pertinaciously. But Jesus held His peace. Herod scoffed at Him for the small train of soldiers and courtiers which followed Him;[12] clothed Him, out of mockery, in a garment of white and sent Him back to Pilate. Why the intention of ridiculing Jesus should have suggested a white garment to Herod, it is impossible to decide. It cannot be admitted that he wished to indicate that Jesus was mad; as we are not aware that there has ever been a colour assigned to mad people. The white garment was the peculiar dress of illustrious persons; Tacitus even tells us that the tribunes were thus attired when they went before the eagles into battle. Perhaps the Tetrarch had in mind the irony of this Roman custom; perhaps he was thinking of the candidates at Rome itself, who wore the toga in competing for any high office.[13] Led by spontaneous intuition, the common people believe willingly in the episode narrated by S. Luke, as arousing keener pity, and they reconstruct and picture the scene, vividly recalling a heart-breaking comparison with the daily records of contemporary judicial proceedings, which so often are conducted amid the same incertitudes and the same vicissitudes. What hopeless steps a prisoner to-day has to trace from court to prison, from prison to magistrate, from magistrate to procurator-general, from these to the judge! How many delays, how many devious tracks, await him before he can be tried! The thought of the luckless wretch spontaneously reverts to the prisoner who was led from Pilate to Herod, and from Herod to Pilate,

before it turns to find upon the height of Golgotha the consoling example of a great and final injustice.

Pilate, on the return of Jesus, must have felt convinced that not only had his first expedient proved an absolute failure, but that his position had been thereby rendered even more difficult. Herod had not met his offer by a preliminary refusal to act, as he might have done considering his manifest incompetence. He had, on the contrary, delivered a judgment in uncompromising favour of the Accused, in whom he found nothing justifying a condemnation. The acquittal by the Tetrarch increased the hesitancy of the Governor.

Pilate again assembled the priests and elders, and said:

"Ye brought unto me this man, as one that perverteth the people: and behold, I, having examined Him before you, found no fault in this man touching the things whereof ye accuse Him, no, nor yet Herod; for he sent Him back unto us; and behold, nothing worthy of death hath been done by Him. I will therefore chastise Him and release Him." [14]

This promise was a second expedient not more legal or more fortunate than the first. If the prisoner was guilty, He deserved the punishment appropriate to His crime, and this punishment could not be a mere chastisement. If He was innocent, it was not right that He should be chastised at all. It appears that the people were not satisfied with the proposal, and that they gave vent to manifestations, which caused the Governor to turn suddenly from this expedient to another.

And it was the third.[15]

Notes

[1] S. Luke xxiii. 5-7: "He sent Him unto Herod, who himself also was at Jerusalem in these days." The expression "himself also" indicates the extraordinary nature of Pilate's presence at Jerusalem, as well as of that of the Tetrarch. It is also to be noted that the declaration here made of Jesus of being a Galilean confirms his origin, which was from Nazareth in Galilee, and does not refer to his birth, which took place at Bethlehem in Judæa. Olshausen also remarks that the examination before Herod shows that Jesus was born at Bethlehem, not at Nazareth; but his argument is forced. Strauss is well able to reply to Olshausen that the purely accidental birth in Judæa, as we know from S. Luke, would not have sufficed to make Jesus a Jew, since his parents had their dwelling before and after His birth in Galilee (*Vie*, par. 131).

[2] *See* chap. xii.

[3] *Ibid.*

[4] L. 1 and 2, Cod. *Ubi de criminibus*, 15, 3.

[5] Cf. Art. 17, Cod. Proc. Pen. *passim.*

[6] S. Luke xiii. 1.

[7] S. Luke xxiii. 12.

[8] S. Luke xxiii. 8, 9.

[9] *Vie*, par. 131.

[10] *Dial. cum Tryphon.* 103.

[11] Schleiermacher, *Ueber die Lukas*, p. 291.

[12] Wilk, Schenkl, and Rosenmüller interpret the words *cum exercitu suo* (Vulgate) differently: the most acceptable sense is that of a kind of "military household" of the sovereign.

[13] Tacitus, *Hist.* ii. 89.

[14] S. Luke xxiii. 13-16.

[15] S. Luke xxiii. 16, 17. The sudden passage from verses 16 to 17 is noteworthy; in the first-mentioned the expedient of the chastisement, in the second that of Barabbas, as if the first had been rejected, and was not a mere momentary proposal.

CHAPTER XIX

The pardoning of Barabbas—What we know about him—It is denied that this Pardon was founded on Mosaic Law—Its Foundation is looked for in Roman Law—The Various Extinctions of the Penal Sanction: Expiation, Death, Pardon, Indulgence, Public and Private Rescission—It is shown how Pilate could have only set Barabbas Free by Virtue of a Private Rescission—The Liberation of Barabbas should have taken place in Consequence of a Demand from the Prosecutors, and not at the Pleasure of the Judge.

Upon the day of the Passover it was customary for the Governor to set at liberty a prisoner selected by the people. This is what the Evangelists tell us.[1] S. Luke even asserts that the Governor was under an obligation to do so.[2] According to S. Mark and S. Luke, it was the people themselves who recollected the custom and asked that Jesus should be put to death and Barabbas set free. According to S. Matthew and S. John, the idea of the release was Pilate's own.

Barabbas was well known.[3] S. John says he was a robber[4] who had but of late been arrested for sedition stirred up within the city and for a murder committed on that occasion.[5] Hence the people, suborned by the priests and elders, clamoured for the freedom of the murderer, rioter, and robber.

It has been debated amongst the interpreters of the New Testament whether the custom which favoured Barabbas was of Jewish or Roman origin. The majority have inclined to the first opinion, and some

have gone so far as to perceive in the custom a symbol of the liberty obtained by Israel on its issue out of Egypt at the first Passover.[6] The opinion is no less erroneous than the conjecture is arbitrary. The question can only be resolved by reference to the fountain-head of Mosaic and Roman law in order to know if and how the usage was sanctioned by one law or the other.

We have already, in tracing the guiding spirit of Mosaic penal legislation, demonstrated that any idea involving condonation of a penalty was irreconcilable with the principles and provisions of the law of Moses. This law was regarded as something divine, and could not admit either of limitations or merciful correctives in its application. The kings themselves, in their day, were deprived of the prerogative of mercy. But they possessed the contrary power of supplementing, by their decrees, the deficiencies of the law and of sending to execution the guilty prisoner to procure whose judicial condemnation there were no sufficient judicial arguments.[7] Moreover, search the Mosaic law as we will, we find not a single provision revealing the institution of mercy among the Jews. We must then seek in Roman law for the juridical foundation of the prerogative which Pilate desired to exercise in favour of Jesus, and which the people claimed for the benefit of Barabbas.

With the permission of those who persist in discovering so deep an imperfection in Roman law as to regard it as a subject for historians and scholars exclusively rather than for jurists, and insist upon understanding by Roman law what in modern language is called civil law[8]—with their permission we are bound to recognise that Roman legislation embodied all the rules which have been accepted by less imperfect systems of law with regard to the extinction of the penal sanction.

It is a fundamental principle that the law which provides for the protection of society should have the double sanction of prosecuting the crime and of carrying out the punishment. But in every legislation there are admitted ordinary and extraordinary causes of exception, by which either the development of the action by which the offence is prosecuted is cut short or the carrying out of the penalty is stopped. Under the rule of a logical and rigid public defence, the principle should allow of no exceptions: the Roman orator based his conception and his confidence on the integrity of a law which could not be overruled by the authority of the senate or the will of the people.[9] But he himself enjoyed the benefits of an exception, since to it he owed the termination of the bitter days of exile. And the conception is to be met with in a greater or less degree in all legislations from the Roman downward.

The normal extinction of the punitive sanction was the expiation of the penalty:[10] the natural extinction was the death of the accused and convicted prisoner. The principle of the personality of crime and punishment rendered any posthumous sanction impossible; and it was only when this fundamental principle of punishment was forgotten, like so many others, as when private revenge was prevalent, that the death of the offender did not deprive the injured party of the right of exacting composition and *weregeld*.

Later, down to the beginning of the nineteenth century, the exchequer, in the same vindictive spirit, did not hesitate to continue proceedings against the dead, by dishonouring their memory, maltreating their corpses, and confiscating their goods.[11]

An exceptional extinction of the punitive sanction was the prescription of the action when a certain time had elapsed after the offence was committed. Nowadays

the convenience of this system meets with approval, although it is contrary to the scientific conception of the protection of society, implying as it does that with the lapse of time there is less interest to punish; that the indirect damage caused by the offence vanishes; that the proofs are lost and the guilty party has sufficiently expiated his fault by the anxieties and hardships of exile.[12] Whoever reflects upon the undeserved and injurious good fortune of such cunning and resourceful criminals as are able to ensure their escape, very rightly cries out against the injustice and the fallacy of presuming that in course of time the motives for punishing grow less, that the proofs of guilt are lost, and above all he cries out against the ingenuous illusion that the criminal is amended, a supposition of which his wandering unknown existence furnishes no proof; he cries out at the contradiction which this kind of impunity presents to the idea of classifying criminals[13] according to the degree to which they are to be feared. Nevertheless, not only is prescription of the action to-day in vigour amongst us, but even prescription of the sentence.[14] This latter form of prescription was certainly unknown to Roman law, and is a mere French importation. The prescription of the action itself was only a late introduction into Roman law.[15]

Another exceptional extinction was pardon granted by the injured party for certain offences, provided that the pardon was not solicited and obtained by bribery:[16] a wise condition and worthy of all respect, though it has not been planted at the base of our modern system, which legitimises the most dishonourable traffickings through the medium of plaints lodged and pursued with the sole object and sole result of disgraceful money-making. By virtue of this system long-complaisant husbands who have tolerated conjugal dishonour raise

on a sudden their Janus-head, simulating anger and disgust, and with the unwilling aid of the guardians of the law, which blesses the indissoluble bond of matrimony, extort from their benevolent betrayers fresh though involuntary prodigalities, or from their profitable wives fresh agreements of ruinous and unhappy effect as regards their children and their property. Similarly insolvent debtors, who have worn out the reason and patience of a creditor, provoke from him a word or act of anger, and so pay their debt in the forced currency of a complaint to be withdrawn for a judicious compensation; sometimes they reverse the position and become creditors themselves. So, too, wily robbers and embezzlers, who cannot be run to earth, owing to difficulties of proof, pose as the aggrieved victims of a false charge, and entrust the vindication of their precious honour to a simple action with the object of making a compromise, which in itself amounts to a new robbery or malversation. Seductive ladies, again, posing as seduced, and knowing how sensitive are the rank and family connection of the man upon whom for the purpose of the charge they fasten the name of seducer, make just as much profit out of him with the help of the law.

But the most exceptional of all modes of extinguishing the punitive sanction was that of the various forms of indulgence. In one of these we must find the custom of liberating a prisoner on the occasion of a public solemnity, which the Evangelists assert to have been adopted by the Roman Governor in the Judaic province.

If we are to bring our subject within the limits of a single modern idea, indulgence must be divided into three distinct institutions possessing the power either to impede or interrupt a penal action or else to annul, mitigate, or commute the penalty: these institutions are

amnesty, general pardon, or act of grace. Amnesty, which means in Greek "forgetfulness," is based upon the opportunity for "forgetting" a certain class of punishable deeds, prosecuted or to be prosecuted within a certain space of time, and it takes the form of an act of clemency on the part of the head of the State expressed in a decree. It is in its essential nature general and absolute, so that a whole class of offenders is exempted from punishment, whether the punishment has or has not been applied to individuals. The general pardon is equally general, but is not absolute, because it does not cut short or impede the penal action, but only condones entirely or commutes in part the punishment. The act of grace, on the other hand, is a singular and personal measure condoning wholly or in part or commuting the penalty already inflicted by way of sentence on the condemned man.[17]

In the regal and republican period of Roman law we meet with a more or less clear form of indulgence, which was the restitution of the condemned (*in integrum restitutio* or *restitutio damnatorum*)[18] by which, with the aid of a law, citizens who had been condemned were reborn to civil life. This restitution was general when it was conceded to the entire body of condemned prisoners; special when it applied only to particular sentences. If it was *in integrum*—that is, if it comprehended the restitution of all rights, such as citizenship, *fama*, and *dignitas*—it was parallel to our amnesty. When it was restricted to certain rights expressed in the act of clemency, it was assimilated to our general pardon. Famous above all is the *restitutio in integrum* granted to the Plebs[19] on the occasion of the first secession. The restitution was special when it was accorded, in virtue of a custom become law, to the prisoner who on his way to execution met by chance one of the vestal virgins.[20]

Under the Empire the merciful exception to the penal sanction assumed two forms.[21] The indulgence (*indulgentia* and also *venia*) was the condonation of the whole or part of the punishment; and it was general or common when it was granted (also *venia*) not with respect to certain persons, but with regard to certain penalties; it was special when it aimed at a definite person, as is the case with our modern pardon.[22] Rescission (*abolitio*), which was already employed under the Republic, became of more frequent application under the Empire, and had the effect of extinguishing the penal action with respect to a whole category of offences.[23] It was granted upon the occasion of public festivals, as, for example, upon the birthdays of the Emperor, and upon the anniversaries of Rome;[24] upon occasions of public rejoicing and welfare, as upon a victory or when a Roman Emperor visited a city for the first time, or when a scion of the Imperial family was born;[25] upon the occasion of a public thanksgiving, or upon the celebration of other acts of divine worship.[26] Amongst these latter cases, one became of constant and periodical recurrence under the Christian Emperors, but not before 367 A.D., this was the amnesty granted at Easter in every year, just as amongst the Hebrews in Palestine.[27]

These varieties of amnesty belonged to public in contradistinction to private rescission, which latter was a privilege reserved to the prosecutor.[28] The prosecutor, after having assumed the part of plaintiff in a case, could not subsequently withdraw unless he requested and obtained leave from the Prince or from the magistrate before whom the trial was taking place.[29]

If therefore we recapitulate all the forms of exception to the penal sanction according to Roman law which we have here indicated, we can infer what must have been the form and the title of the exception by which

Pilate proposed to spare the life of the prisoner of Nazareth. It was not purgation of the capital sentence, for which scourging could be substituted, because scourging was not a punishment either appropriate or proportionate to the charge. It was no prescription of the penal action, because nobody had indicated the date of the acts which were to be punished, and because one of these acts had been consummated during the previous night before the Sanhedrin; it was not remission granted by the injured party, because the injured would have been Jehovah, who in His omnipotence was incapable of remitting a crime; it was no restitution of condemned persons, because for the granting of this a law would have been required, and a governor was in no case a legislator. To judge from first appearances it could have been nothing but an indulgence and a rescission. But it is necessary to know in whom these two prerogatives resided in order that by a final process of elimination, we may attain to a judgment permitting of no alternative.

We have already shown that restitution was granted by means of a law; it is scarcely requisite to add that these species of condonation belonged to the legislative power alone. The restitution which was granted to a condemned prisoner who accidentally met with a vestal virgin must have been the consequence of a custom having the virtue of law.[30] It is at all events certain that the power of restitution was on no occasion allowed to the magistrate.[31]

The same rule must have had force in the case of indulgence and of public rescission; whilst private rescission was regulated according to a different standard. During the first days of the Empire, at which time the people stood for nothing in the public life of the country, and the senate was still the supreme, consultative

and deliberative body of the State, rescission and indulgence belonged at first to the Senate and Prince together:[32] subsequently to the Prince alone.[33] This power could never be delegated by the Prince,[34] so that the governor of a province could in no way stop the course of an action or of a sentence of punishment: the documentary evidences of Roman law go even to prove that he was expressly prohibited.[35]

It is therefore evident that the Governor Lucius Pontius Pilate was unable either to rescind a sentence which had been passed by the Sanhedrin, or (and this is the sole remaining hypothesis) to revoke a judicial action which had taken place before him under riotous circumstances. Neither the one prerogative nor the other was granted him, either on the ground of indulgence or on that of public rescission. There was, however, one other road open to him, and which we must regard as that which he actually intended to follow: the road of private rescission. This was in fact the only exception to the penal sanction which the prosecutor could request of the magistrate *pro tribunali*,[36] who might grant it if it appeared to him that the demand was prompted by just motives and was without an unlawful object. There were just motives, such as error, overhaste, or overheatedness on the part of him who had brought the accusation, but from which he had afterwards desisted.[37] Pilate must have thought that there was at least reason to suspect an error on the part of Jesus' accusers, since the haste with which they made their charge a State affair was evident, and even more evident was the heat with which they demanded the prisoner's death: he might therefore very naturally think of the merciful provision of his law, for which he could never have imagined a more just or a more legitimate application.

This is why, according to S. Matthew and S. John,

he took upon himself to propose to the people the liberation of a prisoner according to all the rules and precedents of a private rescission. The procedure and through and with it the Sanhedrin was the prosecutor of Jesus. The Governor before whom the charge was necessarily brought, was the judge. It was therefore for the people to ask and for the Governor to grant a prisoner's freedom. But Pilate who was eager to try the fortune of this final expedient, wished to discover whether the people would be inclined to reconsider their determination: he wished to draw them into exercising the prerogative of which the initiative rested entirely with them. He, therefore, did not merely propose the release of Jesus, but the alternative between Jesus and Barabbas.

Even to-day, by a slight and praiseworthy exercise of discrimination, the judge will use under consideration a party dispute, which cannot be dismissed by him but by the complainant alone, is wont to take the initiative of pardon by calling upon and urging the prosecutor to abandon his charge, especially if the charge compels the judge to pass a sentence of which he in any way disapproves. Had the right of pardon—which the Evangelists, well acquainted with Roman law, referred to a usage and prerogative of the Roman procurator representative—had the right of pardon possibly consisted in a power of mercy and circumscribed in private rescission, the Vice-Governor of Judea would not have been under the necessity of entirely submitting to such a custom which he would so willingly have brought to bear himself. With this complimentary interpretation no other detail mentioned by the Evangelists agrees—how at the feast the Governor was wont to release unto the multitude one prisoner whom they would—however here the custom does not refer to an extraordinary pardon,

but to a usage consisting precisely in the application of a legal enactment upon a periodical occasion of public joy and thanksgiving to God, such as the Passover was to the Jews.

We have no intention of shielding the moral guilt of Lucius Pontius, weak-hearted and unfortunate hunter after subterfuges. If he had not the prerogative of opposing merciful exceptions to the accomplishment of the penal sanction, he had the free and ready means, nay it was his duty, to restore to Jesus His liberty, to declare His innocence and to pronounce His acquittal as his conviction prompted him, and as the practice of the court over which he presided allowed. He was, however, unwilling to assume the responsibility of a release; and he therefore did not observe, as we shall see, one of the rules regulating the court entrusted to him; he did not seek or discuss a single proof; he did not judge, but sought in the law and hunted in its applications for an expedient permitting him to cast the responsibility of a release upon the people. Herein lies the cowardice of his refusal to act.

Barabbas was no mere rioter, but a murderer too: and assuredly there were among the multitude that raged about the Prætorium those who had charged him with sedition and murder. There was, therefore, no lack of such as, under the accuser's garb, could legitimise in favour of Barabbas, Jesus's rival, a prerogative which should have been merciful, but which was only noxious.

NOTES

[1] S. Matthew xxvii. 15; S. Mark xv. 6; S. Luke xxiii. 17; S. John xviii. 39.

[2] xxiii. 17.

[3] S. Matthew xxvii. 16. Renan claims the knowledge that Bar-

abbas or Bar Rabban was merely his surname, while his real name was Jesus, and that this name has vanished in the majority of the MSS., but that the reading is supported by the highest authorities (*Vie*, ch. xxiv. in the note). Strauss remarks: "According to one reading the man's complete name was Ἰησοῦς Βαραββᾶς, which fact is noted only because Olshausen considers it noteworthy. Barabbas signifies 'son of the father,' and consequently Olshausen exclaims: 'All that was essential to the Redeemer appears ridiculous in the [illegible]' and he seems applicable the verse: 'Ludit in humanis divina potentia rebus. We can see nothing in Olshausen's remark but a [illegible] *impotentiæ*" (*Vie*, par. 131).

[4] xviii. 40.

[5] S. Luke xxiii. 19.

[6] A Lapide, *h. t.* Strauss is content with quoting Baur from memory, "Sur la signification primitive de la fête de Pâques" (*Vie*, par. 131 note). Renan limits himself to repeating with the Evangelists: "It was the custom that a prisoner should be released at the feast of the Passover" (*Vie*, ch. xxiv.).

[7] Maimonides, *De regibus*, iii. 10; see chap. [illegible]

[8] See Savigny, *System des Röm. Rechts*; Arndts, *Pandette*, par. [illegible] n. 3. On the other hand Garofalo rightly remarks: "It is strange that while every portion of the civil law of the Romans is the object of attentive study and of the most accurate and subtle commentation, the criminal laws of that great people are neglected and despised. Nevertheless, a little meditation upon these would reveal that practical common sense in which the Romans were never wanting. There is no need to stop at the surface and to exclaim at their barbarity because a great number of crimes were termed *delicta privata*, when as a matter of fact this involved only a difference of procedure" (*Riparazione alle vittime del diritto*).

[9] "Huic legi nec obrogari fas est neque derogari ex hac aliquid licet neque tota abrogari potest; nec vero per Senatum aut per populum solvi possumus" (Cicero *Rep.* iii. 22, 33; *Ap. Lactant.* vi. 8).

[10] Dig. 48, 19, 33.

[11] Pertile, *Storia del Diritto*, v. par. 176; Florian, *Dei reati e delle pene*, cap. ix. "Non enim res sunt quæ delinquunt sed qui res possident" (Nov. 17, cap. xii.); cf. Nov. 134, cap. xiii. The

penal sanction was not even extinguished in the case of the prisoner killing himself during the trial, suicide being considered proof of guilt; cf. Ferrini, *Il diritto penale Romano*, cap. xi. Nowadays it is legally held that the death of the condemned extinguishes his condemnation as well as any pecuniary penalty which has not been discharged, it being recognized that the penalty involving the patrimony is no less personal than the others. The carrying out of confiscations is, however, not impeded by death, confiscations in reality involving things and not persons (Art. 85, Crim. Code). Art. 86 of the Tuscan Penal Code and Art. 104 of the 1854 Criminal Code proceeded otherwise.

[12] Hélie, *Traité de l'instruction criminelle*, tome i. n. 1341; Lucchini in the *Rivista penale*, xxxviii. p. 401.

[13] Garofalo, *Criminalogia*, pt. iii. cap. iii. p. 448 *et seq.*; Ferri, *Sociologia crim.* p. 742; Olivieri, *Appunti al nuove cod. pen.* p. 244; Zerboglio, *Della prescrizione penale*, p. 129 *et seq.*

[14] Arts. 91-9 Cod. Pen.

[15] The first law introducing it was the *Lex Julia de adulteriis* of 18 B.C. It was only in the times of Diocletian and Maximian that prescription became the general rule and was of twenty years at the most. Cod. 9, 35, 5; 9, 22, 12; 4, 61, 2. Dig. 29, 5, 13; 48, 13, 7.

[16] Dig. 3, 2, 5.

[17] It would be out of place here to repeat the objections which have been offered to these institutions, all of which are equally arbitrary in foundation—objections especially offered nowadays when the institutions are abused. Filangieri very rightly remarks: "If the pardon is just, the law is unjust; if the law is just, the pardon is a violation of the law: on the first supposition we must abolish the law, on the second the pardon" (*Scienza della legislazione*, lib. iii. pt. iv. cap. 57).

[18] L. 24, Dig. *Ad leg. Juliam de adult.* xlviii. 5; l. 3, par. 5, Dig. *De test.* xxii. 5; l. 2, Dig. *De senat.* i. 9; l. 1, par. 9, Dig. *De postul.* iii. 1. To this form some add the *provocatio ad populum*; but in reality this institution did nothing more than sanction the right of every condemned man to appeal from the sentence of the magistrate to the judgment of the people. Cf. my *Sistema del diritto penale Romano*, in the *Archiv. giurid.* vol. xxxvi. cap. iv. Bologna, 1885; Padelletti, *Storia del dir. Rom.* p. 150; Rocco, *Amnistia*,

indulto e grazia, in *Riv. penal*, vol. xlix. p. 20; Lucchini, *Il carcere preventativo*, part i. cap. i. par. 2; Landucci, *Storia del dir. Rom.* vol. i. pt. iii. par. 402 note.

[19] Livy, iii. 54. Cf. for other restitutions, Cicero, *Ad Herenn.* ii. 28; *Ad Attic.* x. 4; *Pro Sexto*, xxxii. 69, xxxiii. 72; *In Pisonem*, xv. 35; Aur. Vict. *De vir. ill.* 89; Plutarch, *Cæsar*, 37; *Ant.* 20; Cæsar, *De bello civili*, iii. 1.

[20] Plutarch, *Numa*. And, *vice versa*, whoever passed beneath the litter in which a vestal was being carried incurred the penalty of death (lvi.).

[21] To the first of the emperors was entrusted a prerogative which amounted to yet another exception. This was the *Calculus Minervæ*, which consisted in a casting vote, which was allowed to Augustus in a condemnation, and which was thus equivalent to a right of mercy (Dio. Cass. 41, 19; Mommsen, *Röm. Staatsrecht.* v. 246; Padelletti, *Storia del diritto Romano*, p. 479).

[22] L. 3, par. 2, Dig. *De mun. et. honor*; l. 1, 2, 3, 4, Dig. *De sent. pass.* xlviii. 23; l. 1, 2, 6, Cod. *De sent pass.* ix. 51; l. 3, Cod. *De his. qui adscrib. in test.* ix. 23; l. 3, Cod. Th. ix. 37; l. 7, Cod. Th. ix. 40. Cf. Landucci, *Storia del diritto Rom.* par. 402, n. 5; Carnazza Rametta, *Studio del dir. pen. dei Rom.* par. gen. cap. v. p. 70. In the Latin texts of the jurisconsults we meet with the *indulgentia*, indicated in such a manner as to include the *abolitio* and *vice versa*; but the inversion and confusion of these two distinct terms depend upon the broader or narrower sense in which they were employed.

[23] L. 3, 4, 8, Cod. Th. *De indulg.* ix. 38; Paulus, *Sententiæ*, lib. v. tit. 17; Hermann, *De abolitionibus criminum*, Leipzig, 1834.

[24] "Ob diem in insignem et publicam congratulationem." L. 8, Dig. *Ad S. C. Turpillianum*, xlviii. 16; l. 6, Cod. *De feriis*, ii. 1.

[25] "Ob rem prospere gestam." L. 9, 10, Dig. h. t.; l. 26, Dig. *Ex quibus causis*, iv. 4; l. 1, Cod. Th. *De indulg.* ix. 38. Cf. Polletto, *Historia fori Romani*, lib. iv. cap. 5; Rocco, *op. cit.* vii.

[26] "Ob honorem domus divinæ." L. 9, Dig. *Ad S. C. Turpill.* xlviii. 16.

[27] L. 3, 4, 8, Cod. Th. *De indulg.* ix. 38.

[28] Thus the prosecutor, when once he had assumed the office of prosecution in a process, could not retire without asking and obtaining permission from the Prince or from the particular mag-

istrate before whom the trial was being conducted. L. 3, Cod. Th. ix. 37 ; l. 12, Dig. xlviii. 16 ; l. 10, pr. Dig. xlviii. 19. Cf. Livy v. 13. The right was subsequently reserved to another prosecutor of opening penal proceedings anew. L. 7, 10, 15, par. 6, Dig. *Ad. S. C. Turpill.* xlviii. 16 ; l. 1, Cod. *De gen. abol.* ix. 43 ; l. 1, par. 7. Dig. xlviii. 19.

[29] L. 3, Cod. Th. ix. 37 ; l. 12, Dig. xlviii. 16 ; l. 10. pr. Dig. xlviii. 19 ; Livy, v. 13. This was a means which was allowed to the prosecutor of avoiding the consequence of the Turpillian senatus-consult by "si quis ab accusatione citra abolitionem destiterit punitur." L. 1, par. 7, Dig. xlviii. 19. The right was subsequently reserved to another prosecutor of opening penal proceedings anew. L. 7, 10, 15, par. 6, Dig. *Ad S. C. Turpill.* xlviii. 16 ; l. 1, Cod. *De gen. abol.* ix. 43.

[30] Plutarch, *v. s.*

[31] L. 4, 19, par. 11, Dig. *De poenis*, xlviii. 19 ; Voet, *Comm. ad Pandect.* vol. vi. p. 346. Ulpian, commenting on the prætor's edict deposing from the power of postulation anybody who had been condemned and not restored, says : "De qua restitutione prætor loquitur ? Utrum de ea quæ a Senatu vel a Principe Pomponius quærit et putat de ea restitutione sensum quam Princeps vel Senatus indulsit, an autem et Prætor restituere possit, quæritur ? Et mihi videtur talia prætorum decreta non esse servanda" (l. 1, par. 10, Dig. *De post.* iii. 1).

[32] L. 12, Dig. *Ad. S. C. Turpill.* xlviii. 16 ; l. 5, Dig. *De leg. corn. de fals.* xlviii. 10.

[33] L. 2, 4, Dig. *De sent. pass.* xlviii. 23 ; l. 27, Dig. *De pœnis*, xlviii. 19 ; l. 1-3, 6, 7, 10-12, Cod. *De sent. pass.* ix. 51 ; l. 7, Cod. Th. ix. 40.

[34] L. 45, par. 1, Dig. *De re jud.* xlii. 1; l. 3, Cod. *De his qui sibi adsc.* ix. 23 ; l. 7, Cod. Th. ix. 40.

[35] "Divi fratres Arruntio Siloni rescripserunt non solere præsides provinciarum ea quæ pronuntiaverunt ipsos rescindere . . . id dumtaxat a principibus fieri potest." L. 27, Dig. *De poenis*, xlviii. 19, and again : "Pœnam sua dictam sententia præsidi provinciæ revocari non licet." L. 15, Cod. *De pœnis*, ix. 47.

[36] L. 2, Cod. ix. 42. Paul speaks also of a person abandoning a charge with the Emperor's permission (l. 15, pr. Dig. xlviii. 16); but Constantine insists upon the rule that "abolitio . . . non a

principe sed a competenti judice postulari debet" (l. 2, Cod. ix. 42). The abolition was requested for each individual charge, and for each accused person where there were several charges and several accused persons (*l.* 1, par. 8, Cod. ix. 42, l. 39, par. 6, Dig. xlviii. 5).

[37] L. 15, pr. Dig. xlviii. 16; l. 15, pr. Dig. xlix. 14; l. 2, Cod. ix. 42.

[38] S. Matthew xxvii. 15.

CHAPTER XX

How Barabbas was preferred to Jesus—The Message of the Wife of Pilate—Her Prophetic Dream—Pilate insists on the Alternative: Christ or Barabbas?—How the Mocking Spirit of the Governor makes Jest of the King to be crucified, and the Servile Character of the Jews who invoked the Friendship of the Emperor—The Unanimous Cry of "Crucify Him"—How not even an Echo was heard of the late Hosannas—The Reason of this is found in the Disappointment of the People that looked for a Miracle—How the Identical Popular Phenomenon was renewed at Florence with regard to Fra Savonarola—The Phenomenon regarded from the Positive Point of View of Collective Suggestion, and from that of the Disorderly Crowd.

"BARABBAS, or Jesus which is called Christ?"

Such were the terms of the choice. The Governor who had laid them down had hoped that the preference of the people would fall upon Christ. And in order to strengthen him in this hope had come the touching message of his wife, who exhorted him not to mix himself in the affairs of this righteous man, forasmuch as all that day she had been troubled in dreams on His account.[1]

The message may appear strange to whosoever remembers the origin and gentilician stigma of the woman, but it cannot have been incomprehensible to the husband, or to any one who thought of the singular, maybe hysterical, nature of Pilate's wife, or to such as knew that she had turned pious with leanings towards Judaism, as is to be read in the apocryphal gospel of Nicodemus,[2]

or to such as were willing to believe that the dream related by her was the spontaneous outcome of what she may have known of Jesus, His teaching, His life, and the peril which then hung over Him.[3] Profane history is not without knowledge of similar dreams, nor does it always reject them as prophetic signs foretelling some dread catastrophe. Roman history recounts the dream of Cæsar's wife on the night that preceded her husband's assassination.

"Barabbas, or Jesus which is called Christ?"

The Governor repeated his offer, while the priests and elders stirred up the people to answer according to their will; and the people were willing to be convinced. Between Jesus and Barabbas? The choice was not difficult. Let Barabbas go free.

"What then shall I do unto Jesus which is called Christ?"

"Let Him be crucified."

Pilate found yet again in his mocking spirit the means of insisting:

"Shall I crucify your King?"

And the priests and elders, with their false, cringing character, made answer:

"We have no King but Cæsar."

And on this idea they raised a more effectual menace, perhaps that which decided the cowardly heart of the Cæsarian Procurator.

"If thou release this man, thou art not Cæsar's friend, for every one that maketh himself a king speaketh against Cæsar."[4]

"Why, what evil hath He done?" asked the Governor yet again.

"Crucify Him!" was the last, unanimous, most piercing cry of the people, causing uproar in court.[5] Not a single discordant voice was raised amidst the

multitudinous clamour; not a word of protest disturbed the mighty concord of anger and reviling; not the faintest echo of the late hosannas, which had wrung with wonder, fervour, and devotion, and which had surrounded and exalted to the highest pitch of triumph the bearer of good tidings on His entry into the holy city. Where were the throngs of the hopeful and believing, who had followed His beckoning as a finger pointing towards the breaking dawn of truth and regeneration? Where were they, what thinking and why silent? The bands of the humble and poor, of the afflicted and outcast who had entrusted to His consoling grace the salvation of soul and body—where were they, what thinking and why silent? The troops of women and youths, who had drawn fresh strength from the spell of a glance or a word from the Father of all that liveth—where were they, what thinking and why silent? And the multitudes of disciples and enthusiasts who had scattered sweet-scented boughs and joyous utterances along the road to Sion, blessing Him that came in the name of the Lord—where were they, what thinking and why silent? Not a remembrance, not a sign, not a word of the great glory so lately His.

Jesus was alone.

He that had looked, not only into the eyes of the mob that thronged and roared about the Prætorium, but even into the hearts' depth of those that were silent, would have marked therein the same void, the same desertion. Even in the souls of the eleven disciples who had preserved their faith to the Master up to the scene with the authorities at Gethsemane, the light of faith had been darkened in the face of the latest occurrences, which seemed, but were not, failure and ruin. Although Jesus had always spoken of the Kingdom of Heaven and not of that of this earth, nevertheless on

Him was laid the burden of the error of those shallow souls by whom were applied to the man, who was but the forerunner, the same contemporary preconception of the Hebrew national Messiah.

Almost all His followers, believing Him to be the Messiah of the prophecy, expected from Him the restoration of the kingdom of David with all its wealth and all its glories. Even the Evangelists in their accounts disclose their supposition of a Messianic ideal according to the prophetic and rabbinical traditions of their people. But a few hours before the worldly defeat of the Master they were striving among themselves as to the preeminence that they should have in the new kingdom—so much so, indeed, that they were rebuked for it with serious words.[6] However, the followers of Jesus had not, it is true, lost courage at the labors and at the vexations which He Himself had foretold to them; but they understood it all as something brief and transitory, destined, by some miracle from heaven, to be followed by a new and a glorious age on earth. But when they saw Him defenceless and without miracles—above all, without miracles—fallen into the power of the hated Romans, with the driving out of whom the new kingdom should, on the contrary, have begun, nay, on the point of being brought by them to execution—then this desperate position of affairs became in the hands of the enemies of Jesus a fearful argument with the people, enabling them to represent Him as a traitor to the nation, as a man possessed of the devil for the miracles which He had worked, and as an impudent impostor for those which He had been unable to accomplish. Once these notions are insinuated among even an applauding multitude, the hosannas cease and the mad cry of "Crucify Him" will break forth. The more ardent and universal were the hosannas, the more wild and

unanimous will be the cry of "Crucify Him." The imagination of worldly goods, says a Catholic critic with deep insight, struck the final blow at the earthly prestige of Jesus.[7] This is the reason of the loneliness to which He was abandoned in the hour of His peril.

Fourteen centuries later, at the foot of another cross, history recorded a similar instance of revulsion and popular desertion. Fra Girolamo Savonarola, the first to feel in the sixteenth century that a freer and wider synthesis of the human race was filling men's minds and awakening them into new life, had grasped in hand and raised on high the banner of the New Birth—the presentiment, as it were, and beginning of the civilisation of modern times. The men of his day, urged by a force mightier than their own, were sailing a chartless sea in quest of a land unknown but divined. Christopher Columbus personifies them all. At the moment when Savonarola was being led to the stake, the explorer was spreading sail. Both were feeling with their hands for a new world, unable as yet to grasp its immensity.

The one was rewarded with bonds, the other with burning. The world—says the famed historian of the great monk—dreaded those men, who were heroes rather than thinkers, and began by crushing them; afterwards it worshipped their footsteps and used them as the track of its own path.[8] Determined to inaugurate the Kingdom of Jesus in his land and to replace the sceptre by the cross, Fra Girolamo intended to bring reason and faith, religion and liberty, into harmony, and for that reason he set himself to overthrow every species of licence and usurpation. His voice was a protest of the Christian spirit against the infamy of Alexander VI., the debasement of the Italian nation, and the tyranny of the wealthy middle class: three sources of death, destined to answer him with death. Around him had broken

out afresh the struggle between "fat folk" and the "lean" :[9] the latter should have been, and were, all for the man who wished to bring the republic back again to the forms of Christian equality. His moving sermons in the Church of S. Mark were interrupted by the sobbing of the crowd; the wealthy class had the drums beaten to drown his voice, but succeeded only in rousing a tumult; the excommunication hurled against him by the Borgias from amidst the debaucheries of the pontifical court did not intimidate even the most timorous and most pious among his followers. But the people had hope in the miracles of the great monk; he reasoned about a moral wonder: the people looked for a physical miracle; and to try him one of them laid upon him the trial by fire. Fra Girolamo did not dare to say that it was a sin to tempt God; the multitude felt that it had been duped, thought itself maybe set up to ridicule, and swept in an hour from adoration to curses, just as the friar had passed from inspiration to subtlety. And when the people saw, after this last blow of misfortune, the burning faggots consume the prophet to the very bones, they were not appeased by his death, the truth of which brought home the fearful comedy of the ordeal by fire. For although in the midst of the flames the victim raised his hand to bless them, the people jeered and mocked his martyrdom. He who knows the details of the execution that took place on the Square of the Signory on May 23, 1498, under the Lord Otto, cannot recognise that popular fickleness and frenzy do not afford us in this case a better example than that offered on the height of Calvary on April 6, A.D. 29, under Pontius Pilate.

On the square was erected the scaffold destined for Fra Girolamo and his two companions, Domenico and Silvestro. At the extremity of a raised platform con-

structed over against the Palace of the Pisani was reared a huge stake crossed at the summit by a beam forming a cross. Every endeavour had been made to avoid this similarity by more than once shortening the stake; but the unwelcome shape of the erection upon Golgotha reappeared unchanged. From the arms of the cross hung three thongs and three chains. Beneath the stake was made ready a pile of combustible material, and a vast concourse of people, primed with the most inhuman feeling, pressed around. Amidst these, prisoners who had been set free by the Signory solely on account of the hatred which they pretended to bear against Savonarola and his followers kept coming and going.[10] Fra Silvestro had made up his mind to speak from the gibbet, but Fra Girolamo dissuaded him with a timely reminder. "I know," he said, "that you wish to maintain your innocence before the people; I charge you to abandon any such thought and rather to follow the example of our Lord Jesus Christ, who, even on the cross, was unwilling to speak of His innocence." As the three monks, stripped of all but their tunics, with feet unshod and arms bound, stepped down the staircase of the palace and drew near to the cross, the most unbridled rabble overwhelmed them with shameful blasphemies, obscene cries, insulting gestures. It fell to Fra Silvestro to mount the ladder first. The executioner, after having fastened one of the three thongs about his neck, and dealt him the death-blow, bound his writhing limbs with the chain. Immediately afterwards he hastened to the other end of the scaffold, and performed the same offices on the person of Fra Domenico, who had stepped up even more lightly and fearlessly than the first victim. It remained for Savonarola, who had witnessed the death of his companions, to take the place between them which had remained vacant.

So lost was he in thoughts of another life, that he almost seemed to have already taken leave of earth. But as the historian tells us, when he was aloft upon the cross he could not refrain from casting a glance upon the multitude below. He saw that each one among them was impatient to see him die. How different were they from those who in bygone days in the Church of Santa Maria del Fiore had hung upon his lips in ecstasy! At the foot of the cross he marked some of the rabble with flaming torches in hand eager to kindle the fire. Then on the instant he bowed his head to the executioner. At that moment an awful silence fell on every one, a shudder of horror seemed to pass through the throng. It seemed as though the very statues that stood around the square shivered. Nevertheless a voice was raised crying, "Prophet, the moment is come to work a miracle." Each incident of that day seemed destined to remain stamped for ever in human memory and to heighten that feeling of mysterious awe which the passing of the prophet was to leave for ever among the people of Florence.

The brutal executioner, thinking to win favour with the excited rabble, began to act the buffoon towards the still quivering body, and in so doing he nearly lost his balance and fell. This loathsome spectacle filled the hearts of all present with disgust and horror; so much so that the magistrates sent and severely rebuked the perpetrator. Upon which he proceeded to make great haste, hoping then that the flames would begin to burn the unhappy friar before he was completely dead. But the chain fell from his hand, and while he was seeking to readjust it Savonarola breathed his last. This was at ten in the forenoon on May 23, 1498. The executioner had not yet stepped down the ladder to light the fire before the flames shot up, for a man who had been

standing for several hours with a burning torch in his hand had immediately kindled the faggots, exclaiming: "At last my opportunity is come to burn him who would have burnt me."

Then of a sudden a wind arose that for a time blew the flames away from the three corpses, while many pressed back in terror and cried loudly, "A miracle! a miracle!" But very soon the wind dropped and the flames again crept nearer the bodies of the three friars, and again the throng closed in. Meanwhile the ropes that bound the arms of Savonarola had been consumed. His hands moved under the action of the fire, and in the eyes of the faithful it seemed as if he were lifting them, amidst a cloud of flame, to bless the people who burnt him. The *Piagnoni* communicated this vision one to another. Many of them were so moved by it that, heedless of the place and people, they fell sobbing on their knees and adored him whom they had already sanctified in their hearts. The women wept convulsively. The young men trembled when they thought of the unhappy pass to which they had come; whilst on one side there was such excess of grief, on the other there was joy. The *Arrabbiati* who were near the gibbet encouraged a screaming, capering horde of children to pelt the three bodies with a hail of stones. From time to time shreds dropped from the bodies and fell into the fire beneath. "There was a rain of flesh and blood, which," says the same historian, following a writer who was himself present at this painful martyrdom, "increased the cries of joy on the one hand and redoubled the vain lamentations and weeping on the other." [11]

The identity between the passion and feeling of these two crowds, blinded by an enthusiasm converted into revengeful anger, is striking. One would hardly say that fourteen centuries intervene between the two events,

and one might well imagine that those who flung insult at the three innocent martyrs were Jews, and not Florentines. The marble statues in the Square of the Signory, with all their luxurious splendour of art and beauty, with all their magnificent show of civilisation, are no less cold and dumb for the people of Florence, although the emotional historian may speak of them shuddering, than were the arid formless rocks of Golgotha for the rabble of Jerusalem. There is no more reasoning, no more humanity, in the *Arrabbiati* than there was in the Pharisees; no more justice and liberty in the Signory than there was in the Sanhedrin. Cardinal Romolino, the representative of the Roman pontificate at the execution of Girolamo, was as wicked and sacrilegious as Caiaphas, the representative of the pontificate of Jerusalem at the martyrdom of Jesus. And what is even more noteworthy, at Florence, too, in 1498 it was the common expectation of a visible miracle that stirred the multitude with enthusiasm and faith: it was the mere external failure that turned it to hatred and execration. The people of Florence, too, after the death of their prophet, rehabilitated him by their piety and in their legends. Scarcely had the ashes of Savonarola been cast into the Arno from the Ponte Vecchio, when the crowd began to believe that the dust from his pyre gave sight to the blind, and a holy woman of Viterbo told them the soul of Fra Hieronymus had been carried by the angels in the midst of his disciples to the heights of Paradise.[12]

This appropriate historical comparison might suffice in itself to explain the abrupt passage from the blindest adoration to the wildest persecution in the feelings of the people towards the martyr of Calvary, so lately worshipped, listened to, and acclaimed with triumphal enthusiasm by the people up to the very gates of Jerusalem. But the new positive philosophy as applied

to criminal science, when treating of the crowd, explains popular phenomena of this nature on the anthropological lines of collective suggestion, which is capable of driving a multitude until it arrives at a state of complete unconsciousness and irresponsibility. It is shown that a crowd is an aggregate of men entirely heterogeneous, composed of individuals of every age, of every sex, of every class, of every sect, of every degree of education, and in the crowd is active the sum of all the influences which suggestion is wont to exercise in relation to age, to sex, and to the moral and intellectual conditions of the various beings composing that crowd.[13] On the other hand, it must be observed that in facts of a psychological order the conjunction of individuals composing a crowd never produces a result equal to the sum of all of these separately, and that in an aggregation of persons of sound sense an assemblage may exist without this quality, just as in chemistry the union of two gases results in a liquid and not in a gas.[14]

The human soul, in fact, is no mere cypher which can be subjected to the simple and elementary laws of the science of numbers, but it is rather a peculiar entity obedient to the most complicated laws of chemistry, and which by its union with similar entities gives rise to those phenomena, often quite inexplicable, termed combinations and fermentations. Consequently the resultant of a union of men is never a sum, but always a product of different individual psychical elements which meet, blend, and neutralise.[15]

Solon used to say of the Athenians that each of them, considered separately, was as cunning as a fox, but that united they were obtuse-minded. Latin experience is summarised in the phrase, " Senatores boni viri, senatus autem mala bestia." " Combine," says an observer who is frequently acute—" combine twenty or thirty Goethes,

Kants, Helmholtzes, Shakespeares, and submit the practical questions of the day to their judgment. Their discussions will perhaps be different from those of an ordinary assembly, although nobody can guarantee even this, but as far as their decisions are concerned it is quite certain they would be in no wise different or better than those of any other assembly whatsoever. And the reason of this is that over and above the originality which makes him an excellent individual, each of the twenty or thirty chosen members also possesses that patrimony of qualities hereditary in the species which render him similar not only to his neighbour in the assembly, but also to all the 'unknown men in the street.' "[16]

Positive science insists upon our studying and defining a phenomenon. The instinct of imitation, that species of attraction that compels us to repeat unconsciously the acts of which we are witnesses and which make an impression on our sense, produces moral contagion having as its cause and means suggestion. As in the cerebral function of man this reflection, as it were, of an impulse received from without spreads from cell to cell, so in the vast field of a collectivity the communication is from person to person.[17] In the midst of a multitude the cry of a child, the word of a speaker, or an act of audacity may carry away all those who hear that cry or that word, or witness that act, and lead them like an unreasoning flock even to reprehensible actions. Thus in a crowd suggestion attains its maximum of effect, assuming epidemic form, because the limit of time and place, and the contact of diverse and dissimilar individuals, carry contagion of the emotions to its extreme limit and increase the phenomena of suggestion to the highest degree. This happens also because, in a crowd, those more susceptible of suggestion are the first to move and are bolder than the rest.

In popular outbursts the vanguard is generally formed by women and children, either naturally or artificially impelled to evil-doing; certainly they act unconsciously. First they are carried away themselves and subsequently they carry the whole multitude with them, till they perpetrate the wildest excesses and vie one with another in devastation and destruction. The most eloquent page ever written concerning the "unconsciousness" of a crowd is penned not by science, but by genius, which, with the touch of art, has stamped on the human phenomenon the truth which is arrived at rather by intuition than demonstration. Any one who has ever taken part in a riot, remarks the genial author, comes back with this question on his lips, "What is it that has happened?"[18]

In the multitude that thronged beneath the Prætorium were blended the most discordant elements that go to make up a population; first and foremost among all were such violent, impulsive, fanatical, criminaloid types as belong to all ages. In this particular crisis sectaries of every degree, conservative to revolutionary, were particularly prominent and active. There were also personal motives for anger and revenge. There was the hatred of the elders and those they had suborned; there was the bitterness and wrath of the simple and of those that had misunderstood. The victim of such a crowd recognised, as He hung upon the cross, its unconscious irresponsible character, even as positive science would to-day. He asked the Father to "forgive them, for they know not what they do."

It was then inevitable, although unreasonable, that the crowd should have wanted the crucifixion of Jesus and the freedom of Barabbas.

Notes

[1] S. Matthew xxvii. 19.

[2] Thilo, *Cod. Apocr. N. T.*; Paulus, *Exeget. Handb.* vol. iii. p. 640. By certain interpreters of the New Testament it is asserted that Claudia was numbered by the Greeks among the saints under the name of Procula or Proscula. But the facts are due to an apocryphal Gospel. Cf. Calmet, *ad h. l.*

[3] This hypothesis is the most spontaneous, and is also supported by Paulus and Olshausen, quoted by Strauss. The latter is, however, influenced by the consideration that "throughout the New Testament and especially in the Gospel of S. Matthew dreams are considered as coming from on high." Therefore we may suppose that S. Matthew wished to make this dream also depend upon the Divine will (*Vie*, par. 131). But his distrust in this case, is to say the least of it, captious, and is contradicted by the indifference with which the majority of orthodox interpreters receive this anecdotic incident in S. Matthew's Gospel. "I cannot bring myself to believe," says one of them, "that these dreams were sent by God to Pilate's wife in order that she should endeavour to restrain her husband from the enormity he was about to commit. . . . As for the reasons which S. Matthew may have had for preserving the memory of this incident, none can really be said to appear from the context." Curci, *Il N. T.* etc. i. p. 187, *ad. h. l.* And against this, S. Augustine, *De tempore*, Sermo cxxi.; Theophylactus, *Enarr. in Matth.* xxvii. 19.

[4] S. John xix. 12, 19.

[5] S. Matthew xxvii. 15 *et seq.*; S. Mark xv. 9 *et seq.*; S. Luke xxiii. 18 *et seq.*; S. John xviii. 38 *et seq.*

[6] S. Luke xxii. 24-7.

[7] Curci, *Lezioni esegetiche sui 4 Evangelii*, lez, ci. vol. v. pp. 240-47; ibid. *Il nuovo Testamento*, vol. i. p. 188.

[8] Villari, *La storia di G. Savonarola e de' suoi tempi*, vol. ii. p. 217.

[9] "He was made away with, as a suspect and heretic, by a part of the Florentines—viz. by the *Grossi*" (the Patricians).

Diario Ferrarese, *Rev. Ital.* vol. xxiv. p. 352. Cf. Edg. Quinet, *Les Révolutions d'Italie*, 2nd ed. chap. iii.

[10] Fra Benedetto, *Cedrus Libani*. Cf. Nardi, Burlamacchi, Barsanti, Pico, quoted by Villari, bk. iv. ch. xi.

[11] Villari, *op. cit.* bk. iv. ch. xi. The writer quoted by Villari is Fra Benedetto (*Cedrus Libani*).

[12] Pico della Mirandola himself imagined that he had succeeded in fishing a piece of Savonarola's heart out of the Arno, and declared that he had several times tested its miraculous virtue in the cure of divers maladies, especially in the casting out of evil spirits.

[13] Ottolenghi, *La suggestione e le facoltà psichiche occulte* (Turin, 1900), part ii. chap. i.

[14] Ferri, *Nuovi orizzonti*, p. 483.

[15] Sighele, *I delitti della folla* (Turin, 1902), Introduction.

[16] Nordau, *Paradoxes*, chap. ii. The author remarks: "We may say that all normal men have qualities constituting a common identical value, equal, let us suppose, to *X*, a value which in superior individuals is augmented by another different quality for each individual, say for example *B*, *C*, *D*. With this premise it follows that in an assemblage composed of twenty men, all of them of the highest genius, we shall have 20 *X*, but only 1 *B*, 1 *C*, 1 *D*; the 20 *X*, would necessarily outweigh the isolated *B*, *C*, *D*—that is to say, the general human essence would outweigh the individual personality, and the workman's cap would completely cover the hat of the doctor and the philosopher," and better still, although without aiming at scientific demonstration, remarked Aristide Gabelli: "It is said committees, commissions, and councils—in a word, the many who exercise power together—are a guarantee against abuse. It were first necessary to see whether they are an aid to use. The end to which powers are conferred is, as a matter of fact, this: that they should be employed; when the guarantees are such as to impede their use, the conferring of them becomes useless. . . . If it is difficult to find genius in all, it is yet more difficult to find resolution and steadfastness; as there is no personal responsibility, every one who can seeks to protect himself . . . the forces of men united with one another and do not form a sum. So true is this that very frequently

a mediocre matter issues from an assembly every member of which might, individually, have settled the matter much more satisfactorily. 'Men,' said Galileo, 'are not like horses harnessed to a cart, that all draw together, but like separate horses all racing, and whereof one wins the prize" (*L'istruzione in Italia*, Bologna, Zanichelli, 1891, part i. pp. 9, 257).

[17] Cf. Taine, Ribot, Espinas, Sergi, quoted by Sighele, *op. cit.* chap. i.

[18] Manzoni, *I promessi sposi*, chap. xii.

CHAPTER XXI

Pilate washes his Hands—Meaning of this Judicial Usage—The Crowd insists Anew—The Last Stand of the Governor—Ecce Homo—Jesus handed over to the Priest—This Handing-Over was the Sole Form of Condemnation—The Responsibility for the Death of Jesus falls upon the Governor—The Roman Soldiers come at this Point upon the Scene for the First Time—The Scourging from a Juridical Point of View—The Prisoner travestied—The Crown of Thorns—The Order of Procedure in Roman Trials—Jesus' Trial does not correspond to any Normal Form of Proceeding: It was a Political Murder.

BUT there was nothing whatever which compelled Pilate to bow to the will of an unconscious mob.

The Romans, whose procurator was, in duty bound to embody the very soul of justice, set before themselves so high an ideal of the judicial authority, that it was impossible for them to tolerate its being overridden or interfered with by the populace. It is set forth later in the laws of Justinian how, on the occasion of a popular uproar, the Emperors Diocletian and Maximian published a warning that "the vain clamours of the people are not to be heeded, seeing that it is in no wise necessary to pay any attention to the cries of those desiring the acquittal of the guilty or the condemnation of the innocent."[1]

The procurator had within his reach the most expeditious means of escaping from his difficulty. It was not for him to enter into discussions or to attempt to

parley with the crowd. It was not for him to rouse suggestion by proposing the free pardon of one of two prisoners. His duty as judge and arbiter of the accusation was to freely exercise his power. It was for him to determine upon a sentence, and not upon the surrender of a prisoner. In acting otherwise, in renouncing his judicial power, in exciting the passions of the multitude, lies the whole guilt and cowardice of his refusal to act.

Meanwhile, seeing that nothing availed, and that the tumult was overleaping all barriers, he had water brought, and washed his hands in the presence of the people, saying, "I am innocent of the blood of this righteous man. See ye to it."[2] But all the waters of the sea had not sufficed to wash his hands clean from the stain of blood, nay, rather the sea itself had been incarnadined.

To wash one's hands in order to attest one's innocence of murder was a Jewish custom.[3] It is on this fact that Strauss took his stand in endeavouring to prove that this detail was invented by somebody in whose interest it was to better bring out the innocence of Jesus, *i.e.* by the compiler of the Gospel attributed to S. Matthew.[4] But in reality it is impossible to admit that any such necessity existed for giving importance to a particular which becomes superfluous in the face of the numberless quite open affirmations of innocence ascribed to the Governor. There is no need to forget that at this moment the roar of the populace had attained an acute stage. S. Luke says that the Jews "were instant with loud voices asking that He might be crucified, and their voices prevailed."[5] According to S. Matthew a veritable "tumult was arising."[6] The Governor set great importance, as he found it impossible to be just, upon being quite clear in what he had to say. But it was

difficult for him to make his words heard. Moreover, many languages were spoken by the multitude. So true was this that Pilate himself ordered the superscription, later on affixed to the cross, to be drawn up in three languages, to the end that it might be read by the many.[7] One can therefore well understand that he should have had recourse to a symbolical mode of expression in order to make himself understood by a vociferous crowd, the greater part of which was familiar with this outward sign.

According to the convenient conception of the Governor, this abdication of duty, thus expressed, might apply to the initiative and exaction of the sacrifice of which the Jews were certainly guilty, but it cannot free him from the higher and ultimate responsibility of injustice, which falls entirely upon him.

To the words accompanying the act of ablution the crowd made answer:

"His blood be on us and on our children."[8]

According to the fourth Evangelist the Governor had recourse to one last expedient. After having Jesus scourged, a course which he had already vainly proposed as an adequate punishment, he showed Him to the crowd from the tribune, endeavouring by this spectacle to excite their pity. The Nazarene had His head surrounded with a crown of thorns. He wore a purple cloak and bore on His person the marks of the injuries and violence which had just been inflicted upon him by the soldiers of the Prætorium in the course of flagellation. Pilate stooped over the rail of the *bema*, and stretching his arm towards the innocent prisoner, cried, as if in sarcastic epilogue to the events of the morning:

"Behold the man."

But his solemn sweeping gesture bore no good fruit.

At the sight of the innocent victim, and at the words of the Governor, all the hatred seething in the hearts of the priests boiled over, and they burst out louder and louder:

"Crucify Him. Crucify Him."

Pilate once more fell back on irony. Just as in the beginning he had proposed to them to judge their prisoner according to their own law, so now, in the same spirit, he said:

"Take Him yourselves and crucify Him; for I find no crime in Him."

This time the Jews were ready to take him at his word. Instead of replying, as at first, that it was no longer given them to condemn to death, they answered:

"We have a law, and by that law He ought to die, because He made Himself the Son of God."[9]

It was equivalent to saying, If we are unable to judge Him legally, we will put Him to death as our law demands.

This alone can have been the meaning of their answer. Certainly they could not have claimed that a Governor should apply the Mosaic law, because the foreigner who in a Roman province rendered himself guilty of a capital offence was bound to be tried according to the laws of Rome.[10]

It appears that at this reply Lucius Pontius became more frightened, not to say alarmed. Once more he went into the Prætorium with Jesus and said:

"Whence art Thou?"

He received no answer, and therefore insisted:

"Speakest Thou not unto me? Knowest Thou not that I have power to release Thee, and have power to crucify Thee?"

"Thou wouldst have no power against Me," an-

swered Jesus, "except it were given thee from above: therefore he that delivered Me unto thee hath greater sin."

The impatience of the priests reached its height. To be more precise, it was at this moment, according to the fourth Evangelist, that they cried:

"If thou release this man, thou art not Cæsar's friend." And also: "Every one that maketh himself a king speaketh against Cæsar."

Pilate resisted no more. For the last time he brought the prisoner forth and gave Him into the hands of His accusers. For condemnation he delivered Him up. His sentence was a mere piece of sarcasm.

"Shall I crucify your King?" [11]

This was the last word of the judge administering justice in the name of Rome, the mother of law. Not one word more, not the faintest indication of the motives of his answer, which was nothing but a capitulation. All that the Evangelists tell us is:

"That he released unto them Barabbas and delivered Jesus to be crucified." [12]

But not on this account, and not because the condemnation passed by the Governor was an act of surrender rather than an act of seizure—not on this account does the dread responsibility of the death of the Nazarene, which he vainly rejected, fall the less upon him. The succeeding events make this abundantly clear. Vainly did Pilate wash his hands, vainly did he deliver up his innocent prisoner to foreign accusers instead of to his own officials, vainly from the very first did he say to the Jews, "See ye to it."

But as far as the scourging was concerned, as far as the crown of thorns, the scoffing sentinel posted to watch the execution, the superscription of his accusation, the cruel instrument of the cross and even the delivery

of the body were concerned, he was compelled to look to it himself.

By the two first Synoptics the flagellation is put down as belonging to this final stage of the trial and as a preliminary to the crucifixion.[13] By the third Evangelist it is put farther back as a punishment twice proposed by the Governor and never carried out, as a substitute for crucifixion.[14] The fourth Evangelist makes it an offer of the Governor afterwards carried out, but as a substitute for and not as a preliminary to crucifixion.[15] The divergency is thus remarkable but not irreconcilable. S. Matthew and S. Mark simply assert that Pilate delivered Jesus up to be crucified after causing Him to be scourged, as was the custom before crucifixion. S. John anticipates the flagellation somewhat, giving us to understand that Pilate intended it first as a substitute for the cross, and that afterwards, when the Jews insisted, he converted it into a preparatory measure. S. Luke merely restricts himself to the reiterated proposal of flagellation as a punishment complete in itself.[16] What is quite certain is that the flagellation corresponded to the *virgis cædere*, which according to Roman law preceded the *securi percutere* in the generality of executions.[17]

It is at this juncture that Roman soldiers appear for the first time. They it is who carry out the flagellation. Afterwards the entire cohort gathered round the prisoner, and after having despoiled Him, clothed Him in a purple *chlamys*.[18] This was the second but not the last travesty to which the victim of truth was subjected by way of mockery. Once Herod sent Him back to Pilate arrayed in white apparel.[19] A second time Pilate presented Him to the Jews dressed in purple, and it was in this garb that He was beaten with rods;[20] and finally he was clothed once more in His own garments when He

was sent to the cross.[21] But this time when he was cloaked in purple the blasphemous masquerade was complete. They plaited a crown of thorns and put it upon His head, and a reed in His right hand in guise of a sceptre. And they kneeled down before Him and mocked Him, saying, "Hail! King of the Jews." And they smote His head with a reed and spat upon Him. Then they put on His own garments again and led Him out to crucify Him.[22]

And it was about midday.

Thus ended the trial before the Prætorium. But the name of trial is ill-befitting to the chain of wild, savage, and disorderly proceedings which followed one upon another from early morning to midday on April 7. Jesus was now condemned. That He was tried cannot be said, for who were His judges and when did they judge Him? Not they of the Sanhedrin, for they had not the power, nor did they claim it. Not by the Roman magistrate in the Prætorium, who heard no single word of evidence, sought not a single proof, weighed not a single pleading, observed not a single form. Were one to forget the place of the proceeding—a Roman tribunal—were one to forget the date, some eight centuries after the foundation of the city of Rome, that had no childhood—Rome, the teacher of law to civilised mankind—one might imagine that one was present at some primitive trial taking place before the curule throne of one of the first Roman kings without the slightest guarantee of even the most grotesque ritual forms.

But at the time when these things took place, the law-giving genius of Rome had reached, in the organisation of its criminal tribunals, the highest pinnacle of civilisation. It is sufficient to have a summary notion of what Roman criminal trials were, in order to strike

a comparison between what actually took place and what the trial before the Roman Governor on April 7 should have been.

The jurisdiction of the single sovereign judge, were he king or were he consul, which lasted, as it was well fitted to last, through the two and a half centuries of monarchy, was destined to come to an end in the better days of the Republic. It yielded to institutions which first modified it in part, and afterwards suppressed it in entirety.[23] A law proposed in 245 by the Consul Publius Valerius, the successor of Collatinus, prescribed that no magistrate should have power to carry out sentence on a Roman citizen who had appealed to the judgment of the people. It was their famous *Lex Valeria* (*De provocatione*), which the Romans always considered as the palladium of their civil and political liberty, and it was with this law that the popular jurisdiction of the *comitia* was inaugurated.[24]

It was natural that when once the right of appeal was recognised, use should often be made of it. Great use, indeed, was made of it, and it was to the endeavours on the part of the dominant caste to restrain the popular right that other laws of kindred character came as rejoinders. One of these is noteworthy. Instead of punishing its own violation, it declares such an act to be *improbe factum*. It appears that for those times such a declaration was sufficiently efficacious. "Qui tum pudor hominum erat." [25] But those that held power were unable long to tolerate this condition of affairs, under which they constantly saw their verdicts impugned and their authority invalidated. This led to their being forced to abandon the post of judges and assume that of prosecutors, taking upon themselves to establish those courts which had to be appointed in the first and the last stage by the people assembled

in the *comitia*. This is how an ordinary popular jurisdiction came to be instituted in which the magistrate was the prosecutor and the people the judges.[26]

The Republic grew, and with it the number of crimes, so that it became difficult to convoke the *comitia*, and the necessity was felt for a reform which, when it was carried out, led to the institution of permanent tribunals (*quæstiones perpetuæ*). In these the examination of certain fixed classes of prosecution was entrusted to citizens, chosen annually by the urban prætor from amongst the various orders of burgesses and the various limits of age. These tribunals acted under a prætor, who constituted and directed them, and who was aided in his duties and was replaced when absent by a special magistrate (*iudex quæstionis*). One of these two, at the opening of any case, threw the name of the citizens inscribed on white tablets into an urn (*album iudicum*), and then drew out from these a certain number. Both prosecutor and defendant, however, were able to reject some of these, who were replaced by others taken anew from the urn.[27]

To fail to recognise the analogy between this system and that of our own popular courts, and to attribute the origin of these to an imitation of English legislation,[28] is much the same as denying the relationship of a flower to the mother plant which has borne it after a long period of sterility. The example of the English courts, which are undoubtedly most closely related to our own, gave occasion for the foundation of these, but are not the original, which is obviously Roman.

On the contrary, the modern popular courts mark the resurrection of social powers and open a new path to the sovereignty of the people; the Roman perpetual courts, on the contrary, were the last traces of a decay-

ing burgess power, and mark the close of the first cycle of popular sovereignty deliberating and giving judgments in the *comitia*. So long as dying liberty claimed its liberties against rising despotism, the trial by the people was not abolished, the first tyrants of the Empire were forced to respect this ancient bulwark of liberty; but when the contrasts between worth and ambition grew weak in the doltishness of sleep and sensual pleasure, then was the last torch quenched and the free courts were turned thenceforth into something far different.

One of the first acts of imperial despotism consummated by Augustus was the abolition of the jurisdiction of the *comitia*, which had so far continued to exist side by side with that of the permanent tribunals, having cognisance of eight different kinds of crime. He extended this cognisance so as to include twelve kinds of crime, and transferred the jurisdiction in all other cases to the senate. The latter, however, as its nature gradually changed owing to the new political constitution of the Empire, encroached upon the jurisdiction not properly its own, and the permanent tribunals went on declining stage by stage until they finally collapsed in the third century of the Christian era.[29]

From that time forward ordinary jurisdiction was entirely absorbed by the imperial authorities—the prefect of the city,[30] of the watch,[31] of the coin distribution,[32] the *vicarius*,[33] the prætor of the Plebs,[34] the defender of the city,[35] the prefect of the Prætorium,[36] and, of all the most remarkable, the governor or proconsul of the provinces:[37] all these magistrates, at various epochs and in various degrees, possessed the privilege of administering justice.

Lucius Pontius Pilate was, therefore, within the limits of his office, provided with the same judicial power as the senate, not only for this reason, but also on ac-

count of the historical and civilised source from which his power derived; it is evident that this could not have been construed to override the rules assuring to a capital trial the dignity and safeguards proper to the most supreme function of a decadent, but nevertheless civilised, people.

According to the rules of procedure in the *comitia*, the magistrates themselves prosecuted. The prosecutor mounted the *rostra*, and after having called the people together by the voice of a crier, made declaration that upon such and such a day and for such and such an offence he would accuse such and such a citizen, whom he thereby called upon to come forward to listen to the charges. The defendant thereupon either offered sureties for his appearance or was thrown into prison. Upon the appointed day the prosecutor again mounted the *rostra*, and after summoning the accused by a herald, he brought evidence, documentary and otherwise, against him; the prosecution included three orations, one per *diem*. Those Romans were worthy forerunners of our late Latin lawyers. The prosecution had to be confirmed in writing and was published in the Forum on three market-days. On the third day the prosecutor yielded the right of speech to the defence. The accused and his patron mounted the *rostra* and proceeded to dispose of the prosecution, bringing up their evidence, documentary and otherwise. The plaintiff then announced the day on which he would repeal the plea, already made public. And upon that day he called upon the people to consider it and give their votes. Originally voting was carried on by voice; but subsequently by means of a tablet bearing one of the two letters V. (*uti rogas*) or A. (*absolvo*).[38]

According to the procedure in force in the permanent tribunals, the prosecutor was compelled to summon

the defendant according to the rules applicable in a civil trial.[39] Upon the day appointed both plaintiff and defendant put in an appearance before the judge, who administered the oath to the plaintiff and denounced the name of the accused. The names of the two parties, the day of their appearance, the deed which gave rise to the charge, and the provisions of the law transgressed were all entered in the *libellus inscriptionis*. The magistrate presiding over the tribunal subjected the charge to a preliminary examination, and quashed it in any case where the *libellus* was irregular. He ordered the prosecutor to provide security and to declare anew that his denunciation was true and not calumnious. The date of the trial was then determined, and in the meantime the defendant discarded his ordinary apparel and put on shabby ragged dress, made preparations for his defence, and hunted up *patroni*. On the day appointed the court was constituted, the judges were elected, the plaintiff produced his documents and evidence, the *patroni* did likewise and delivered also the speech for the defence. The judges recorded their vote in one of the three tablets bearing initials C. (*condemno*), A. (*absolvo*), N.L. (*non liquet*). The prætor presiding over the tribunal pronounced sentence in one of the three formulæ corresponding to one of the three phrases (*videtur fecisse*; *non videtur*; *amplius esse cognoscendum*).[40]

In criminal trials under the new law some of the forms of procedure here described fell into desuetude. The principal among them, however, remained intact, especially those having regard to the manner of bringing a charge and of maintaining the same by documentary and other evidence.[41] It is also certain that in the provinces the same order was observed in criminal cases as was observed in cases tried at Rome.[42]

It is sufficient to compare with these data the sense of disorderly and riotous occurrences which took place before the Prætorium in order to be satisfied that not one of the simple and rational forms of the Roman trial was observed in condemning a prisoner to death. There was neither inscription nor even definition of the charge; the crime was not formally declared; no appropriate legal enactment was applied; there was no hearing of witnesses; there was no proof of a criminal act; there was nothing said in justification or explanation of the sentence. There was in fact no sentence; the prisoner was merely handed over by a motion of the hand of His accusers, in open contrast to the proclamation of the judge who had declared the innocence of the Accused and had then washed his hands of the matter.

Jesus of Nazareth was not condemned, but He was slain. His martyrdom was no miscarriage of justice, it was a murder.

NOTES

[1] L. 12, Cod. *De pœnis*, ix. 47: "Vanæ voces populi non sunt audiendæ, nec enim vocibus eorum credi oportet quando aut noxium crimine absolvi aut innocentem condemnari desiderant."

[2] S. Matthew xxvii. 24.

[3] Deuteronomy xxi. 6, 7. Cf. Sota, 8, 6.

[4] *Vie*, par. 131.

[5] xxiii. 23.

[6] xxvii. 24.

[7] S. John xix. 20.

[8] S. Matthew xxvii. 25, 26.

[9] S. John xix. 1 *et seq.* The tragic scene "Ecce Homo" is the subject of the beautiful painting by Antonio Aseri, here reduced to form a frontispiece to this volume by his son Francesco.

[10] L. 3, Dig. *De officio præsidis*, i. 18, 3: "Habet (præses) in-

terdum imperium et adversus extraneos homines si quid manu commiserint ; nam et in mandatis principum est, ut curet is, qui provinciæ præest, malis hominibus provinciam purgare, nec distinguitur unde sint." Cf. Capobianco, *Il diritto penale di Roma* (Florence, 1894), part ii. cap. i. p. 128.

[11] S. John xix. 1-16.

[12] The decisive part of Pilate's action is thus textually recorded by the four Evangelists :—S. Matthew xxvii. 26 : "Then released he unto them Barabbas, but Jesus he scourged and delivered to be crucified" ; S. Mark xv. 15 : "And Pilate, wishing to content the multitude, released unto them Barabbas and delivered Jesus, when he had scourged Him, to be crucified" ; S. Luke xxiii. 24, 25 : "And Pilate gave sentence that what he asked for should be done. And he released him that for insurrection and murder had been cast into prison, whom they asked for ; but Jesus he delivered up to their will" ; S. John xix. 16 : "Then therefore he delivered Him unto them to be crucified."

[13] S. Matthew xxvii. 26 ; S. Mark xv. 15.

[14] S. Luke xxii. 16, 22.

[15] S. John xix. 1.

[16] This Evangelist indeed does not speak of any scourging at the moment when Jesus was handed over into the power of the Jews (xxiii. 25). Cf. Paulus, *Exeget. Handb.* 3, 6, p. 647.

[17] Cf. Pothier, *Pandect.* lib. xlviii. tit. 19, p. 5.

[18] S. Matthew xxvii. 27, 28 ; S. Mark xv. 16, 17.

[19] S. Luke xxiii. 11 : "Et illusit indutum veste alba" (Vulgate).

[20] S. Matthew xxvii. 28 ; S. Mark xv. 17 ; S. John xix. 5. The fourth Evangelist, in speaking of a *purpureum vestimentum* (Vulgate), must refer to the same garment alluded to by S. Matthew (*ibid.*) as a *chlamydem coccineam* and by S. Mark (*ibid.*) under the phrase *induunt eum purpura*. S. Mark anticipates this second travesty, which, according to the other two Evangelists, took place at the moment of the scourging. That there was yet another travesty cannot be admitted, despite the fact that the garment, which was always of purple, is referred to as a *chlamys coccinea*. The *chlamys* was the cloak worn among the Greeks by personages of distinction, and among the Romans the garb peculiar to soldiers ; it was reddish or *coccinea*, a colour which is declared by Pliny (*Hist. nat.* xxii. 7), and by the Scholiast to Juvenal (*Ad*

satir. lib. iii.), equivalent to purple. That on the other hand there was only one travesty, that reported by the Evangelists, results from the unvarying concomitant circumstance of the crown of thorns. S. Luke, who alone vouches for the episode of the sending to Herod, and consequently of the white garment (xxiii. 11), speaks of no travesty at the moment when Jesus was delivered up to the Jews, and was crucified (xxiii. 25 *et seq.*). Philo also notes the travestying of a man out of derision (*In Flaccum.*)

[21] S. Matthew xxvii. 31; S. Mark xv. 20; Wetstein, p. 533.

[22] S. Matthew xxvii. 29 *et seq.*; S. Mark xv. 17 *et seq.*; S. John xviii. 5 *et seq.* It was inevitable that there should arise a discussion as to the species of plant out of which the crown was plaited. The text says ἐξ ἀκανθῶν (*ex spinis*); but Gretzer (*De cruce*, lib. i. 11) arrives by various conjectures at the conclusion that it must have been of *iuncus marinus*. Sieber (*Viaggi*, pp. 143-5) thinks it was of *rhamnus*. Upon this subject, when treating of the flagellation, Giacomo Leopardi, a young cleric aged fifteen, recited one of his disquisitions in the Church of S. Vito before the *Compagnia dei Nobili* at Recanati on March 19, 1814. This disquisition, mentioned by Giuseppe Cugnoni (*Opere inedite di G. Leopardi*, Halle, 1878), has been published from the autograph text by F. Ferri Mancini (*Due ragionamenti inedite di G. Leopardi*, Recanati, 1885), together with a kindred dissertation entitled the *Crocifissione e morte di Cristo*, delivered upon a similar occasion in 1813. These are not the only juvenile writings of Leopardi with regard to Christ. In the library of the family at Recanati are preserved *La Natività di Gesù*, *La Coronazione di Spine*, *L' Adorazione del Bambino*, *Il Viaggio del Redentore al Calvario*, *La Morte di G. C.*, *Il Trionfo della Croce* (cf. Cugnoni and Ferri, *op. cit.*). But all these compositions are of but little moment and are valuable only as showing the evolution gone through by Leopardi, in an inverse sense to that gone through by Manzoni, from belief to disbelief; this evolution must in his case have taken place more or less slowly if the thought which we read in his *Zibaldone* is true: "It is no sign of great talent to always and at once, habitually, determine not to believe" (ii. 50). In his *Zibaldone* we come across thoughts exceedingly hostile to Christianity (cf. i. 191, 215, 235, 296, 345, 399, 411; ii. 91, 374; iii. 173, 174; iv. 403; v. 89, 211; vii. 153). Labanca believes that if Leopardi had not become

a great poet, he would have been a great historian of ancient religions and of early Christian times; this he deduces from the writings here mentioned and from others, such as the *Vita di Plotino per Porfirio*, *I Frammenti de' primi Padri della Chiesa*, *Gli Errori popolari degli antichi* (Labanca, *Gesù Cristo nella letteratura contemporanea*, cap. iv. pp. 93, 270).

[23] Cf. my *Sistema del. dir. pen. Rom.* in *Arch. Giur.* Bologna, 1885, caps. ii. and iii.

[24] L. 2, par. 16, Dig. *De orig. iur.* i. 2; Cicero, *De repub.* ii. 31; Livy, x. 9.

[25] Livy, *h. l.* This law, which would to-day appear the acme of ingenious legislation, was proposed by the Consul Marcus Valerius in 454.

[26] Cf. my *Sistema* quoted above; Laboulaye, *Flores iur. antejustin*; Lucchini, *Il carcere preventative*, part i. cap. i. par. 2.

[27] Cicero, *Pro Cluentio*, 54, 158; Cujacius, *Observationes*, ix. 23. Sigonius, *De judiciis*, ii. 4; Tomasius, *Dissert. de orig. process. inquis.* p. 30; Filangieri, *Scienza della legislazione*, lib. iii. cap. xvi.; Gibbon, *Decline and Fall*, chap. xliv.; Bruns, *Fontes iur. Rom. antiq.* 50; Geib, *Criminalprozess.* 413.

[28] Aignan, *Histoire de jurispr.* p. 80; Pisanelli, *Dell' istit. dei giurati*, p. 102.

[29] Suetonius, *August.* 11, 32; Dion Cassius, lvi. 40; cf. my *Sistema*, cap. v.

[30] L. 1, pr. D. *De off. præf. urb.* 1, 12; L. 2, pr. Cod. Th. 2, 16; l. 13, Cod. Th. 9, 1; l. 12, Cod. Th. 9, 40; Juvenal, *Satires*, xiii.

[31] L. 3, par. 1, D. *De off. præf. vigil*, 1, 15; l. 15, D. *De condict. causa data*, 12, 4; l. 56, D. *De furtis*, 47, 2; l. 2, D. *De effract.* 47, 18; l. un. Cod. *De præf. vig.*

[32] L. 13, D. *De accusat.* 48, 2; l. 3, par. 2, D. *De lege Jul. de annona*, 48, 12.

[33] L. 36, Cod. Th. 11, 30.

[34] Nov. xiii. cap. i. par. 1.

[35] Nov. xv. cap. vi. par. 1.

[36] L. un. pr. D. *De off. præf. præt.* 1, 11; l. 3, Cod. *De off. præf. præt.* 1, 26.

[37] L. 8, 9, D. *De off. præs.* 1, 16; l. 1, 3, 13, 21, D. *De off. præs.* 1, 18.

[38] Cicero, *Pro domo*, 45; l. 5, Dig. *De accus. et inscript.*; Pothier, *Pandect.* xlviii. 2, 36, 38.

[39] L. 3, 18, Dig. *De accus. et inscript.* Cf. Buonamici, *La storia della procedura civile Romana* (Pisa, Nistri, 1886), lib. i. pp. 261, 268, 284, 333.

[40] L. 3, Dig. *De accus. et inscript.*; l. 35, par. 1, Dig. *Ad legem Juliam de adult.*; l. 7, par. 1, Dig. *De accus. et inscript.*; l. 3, Cod. *De his qui accus. non poss.*; l. 18, par. 9, Dig. *De quæst.*; l. 12, Dig. *De accusat.* Exceedingly wise was the system of *non liquet*, as the occasional disagreement between jurymen nowadays shows.

[41] L. 7, Dig. *De accus. et inscript.*

[42] *V.s.* Cf. Pothier, *Pandect.* xlviii. 2, n. 28.

CHAPTER XXII

The Cross—The Procession towards Calvary—How the Three Prisoners carried the Implements of their own Punishment—Simon of Cyrene—The Two Thieves—The Women who followed Jesus and His Mother—Golgotha—The Cross as a Penalty of Roman and not of Mosaic Law—The Superscription of the Offence written above the Cross—Crucifixion of Jesus—The Beverage—How the Garments of the Executed passed by Right of Law to the Executioners—The breaking of the Bones of the Crucified Prisoners—The Last Words of Jesus—His Death.

THE Path of Suffering hurries us on towards the epilogue of those events which were to bring the Man of Sorrows to His end.

It was mid-day when the mixed and sad procession set forth from the threshold of the Prætorium. Amongst those that followed it were Hebrew priests, citizens from every class in the holy city, strangers from distant regions, Levites and scribes of the Temple, guards of the Sanhedrin, Roman soldiers under the command of a centurion, and women of various ages and various demeanour. In contrast to them all went three men of very different aspect, bending beneath the weight of two beams fastened together in the form of a fork. Slowly and silently they passed out of the city by the gate of Ephraim in the direction of a neighbouring altitude, bare of trees and in the form of a skull.

When they had passed a little way, the weakest and most feeble of the three gave way beneath the crushing

burden that was laid upon Him. At this juncture a wayfarer from Cyrene, on the way back from the country, fell in with the procession. He was requisitioned by the soldiers and compelled to carry the cross of Him who was sinking.[1] It was Jesus who had succumbed. The mournful burden which had been laid upon Him tells us that which Pontius Pilate had not spoken, when he uttered over Him the inarticulate command which was to have the fatal power of a condemnation: it tells us that the guiltless Victim had been sentenced to the extreme penalty of the cross.

Those who were condemned to this punishment were themselves compelled to carry the fearful instrument of their destruction.[2] The two beams of wood composing it were fixed together at the place of execution. So long as they were carried by the condemned they were simply bound together cross-wise. Jesus, not only because He was weak and slender, but also because He was enfeebled by the cruel martyrdom which in itself frequently proved fatal—by the flagellation which had been spared the others—was unable to withstand this fresh trial. Therefore the Cyrenean Simon was compelled to undertake the bitter toil, which must have caused him deep grief, if it is true that, together with his wife and his sons Rufus and Alexander, he had become the faithful disciple of the Nazarene.[3] The other prisoners who had set forth upon the same journey, and who bore their own crosses undaunted, were two thieves.[4] Perhaps the mocking Governor had assigned these two companions in ignominy to Him who had been accused of proclaiming Himself King of the Jews, in order to insult these last rather than Him.

Jesus, thus relieved of the heavy burden, had to be dragged up the weary ascent—it can hardly be said that He walked. The women could no longer contain their

tears, but beat their breasts and uttered piercing sobs. They were Mary Magdalene, Mary, and also Salome, mother of S. John the Evangelist, Joanna, the wife of Chuza, and others who from the beginning had followed the steps of the Nazarene in Galilee, and incomparable among them all for her boundless grief, sublime in her calm and sweet demeanour, the mother of Jesus herself.[5] To these women tradition adds yet another, not mentioned by the Evangelists, but who has received especial reverence in the memory and piety of Christian families. This is Veronica. As she saw Jesus pass before her house, His brow covered with dust and blood, she hastened after Him in pity at the indignities they heaped upon Him, and wiped His suffering countenance with her veil. Thus, with Simon of Libya, she offers us the example of those who have courage to show compassion and devotion to those who are abandoned in the hour of their peril.[6]

Between mother and Son there passed a rapid glance.[7] To the other women Jesus turned, saying:

"Daughters of Jerusalem, weep not for Me, but weep for yourselves, and for your children. For, behold, the days are coming, in which they shall say, Blessed are the barren, and the wombs that never bare, and the breasts that never gave suck. Then shall they begin to say to the mountains, Fall on us; and to the hills, Cover us. For if they do these things in the green tree, what shall be done in the dry?"[8]

The procession arrived at the place of punishment.

This was the summit of a rounded convex hill, like in appearance to a skull, so that in the Latin it had been called Calvary, and in the Syro-Chaldaic dialect Golgotha.[9] Here the three crosses were erected.

This cruel and terrible contrivance, as it has been called by the great orator,[10] was a form of punishment

entirely unknown to Jewish law and tradition. In the whole course of Hebrew history we only once meet with a cross, in the case of one of the last Asmonean princes, and this in an outburst of especial hatred.[11] On the other hand, it was common to other ancient peoples: the Egyptians,[12] the Persians,[13] the Phœnicians and Carthaginians, the Greeks and the Romans.[14] These last, in Syria especially, employed it upon a vast and most inhuman scale.[15] Roman law derived its punishments from private revenge, as the ground and measure of retribution,[16] and laid the foundation of our actual theory of punishment in the two connected principles of amendment[17] and intimidation.[18] But intimidation must necessarily have the greater weight as a repellent influence, the penalty being always regarded as opposed to an attractive influence, such as the crime is in accordance with every hypothesis. The safeguarding of public order, which was the governing idea of Roman penal justice,[19] found its efficacy and its success in the result which was yielded by the balancing of the two opposing forces of attraction and repulsion, and this amounts to the *lex talionis* (*lo contrapasso*), as Dante was told by his genius;[20] and consequently the Roman legislator always aimed at the exemplary and terrifying nature of the punishment as the means of causing greater intimidation. "That nobody shall venture to commit a similar act with these examples before his eyes:"[21] so the legislator remarks in assigning the penalties, proceeding at the same time, as he himself says, to select and establish the most terrible, the most refined, and the most exquisite. Among such clearly ranks the cross as one of those punishments which inflict the most lingering and painful death, and which unite disgrace with cruelty.

It derived its origin from the ancient practice of fast-

ening criminals to a tree, which was termed "accursed" (*arbor infelix*),[22] so that the term "cross" was applied to every form of capital punishment,[23] and every malefactor worthy of death was called *cruciarius*.[24] Occasionally these same trees were employed in the construction of crosses.[25] To the original use of the *arbor infelix* succeeded that of the *furca*, which was also termed *patibulum*.[26] Later on, when Constantine abolished the cross, there was a return to the use of the *furca*.[27] The penalty of the cross was regarded as the most serious of all on account of the longer duration of the sufferings of the condemned.[28] Not merely was it attended with *infamia*, but it was considered to involve such ignominy that at first it was only inflicted on slaves.[29] In later days Cicero complained that Labienus had ordered a cross to be planted in the Campus Martius for the punishment of citizens,[30] and it became, in fact, one of the ordinary penalties of Roman law.[31]

The sufferings of the victim were long drawn out. For one, two, or even three days, he was exposed naked to the inclemency of the weather and the cruelties of man. His limbs were nailed and stretched upon the wood. The wounds in his hands were torn by the weight of his own body. His cramped position caused him torment, and as he hung there motionless, devoured by fever and burning thirst, there was no respite to his agony. The clear and complete consciousness of his sufferings, which passed away only with the passing of life, increased his anguish.

The cruel instrument was constructed in divers fashions. Sometimes one beam was morticed into another horizontally. A cross of this kind was termed *immissa* or *capitata*. At other times the horizontal beam was fixed to the extremity of the vertical one, in the form of a T. This was the *crux summissa* or *commissa*.

Occasionally the two beams were let one into another and made a figure X; this cross was styled *decussata*. A single beam or stake was sometimes employed alone, and along this the victim was bound or nailed. His arms were drawn up above his head. In this case the construction was called *simplex*. The most common cross in use among the Romans, and the one therefore with which the name is directly associated, was that described here first. In all probability it was a cross of this kind which was allotted to Jesus. From the account which we shall here give it may be inferred that a document was affixed above His head, on which there was an inscription, repeated three times.[32]

To some crosses, about half-way down the vertical beam, was fixed a wooden block which was able to give support to the prisoner, whose sufferings were consequently lessened but prolonged.[33] Justin names this block *cornus*, and Tertullian calls it a *staticulum* or *sedilis excessus*.[34] This detail has been almost constantly rejected by art, and the experience of anatomists does not insist upon it as being absolutely essential for the support of a normal crucified victim, or for the avoidance of the tearing of the palmary tissue of the hands. Certain Latin texts, however, which describe how the condemned were placed upon the cross, confirm the use of the block.[35] It must certainly have been employed whenever the victim was bound to the cross after having been nailed to it. The wedge-shaped support which has been imagined as placed beneath the prisoner's feet, is foreign, so far as I am aware, to ancient literature and iconography.[36]

The cross was sometimes placed upright after the condemned prisoner had been fixed to it; at other times the order of proceeding was reversed. We are unable to say which method was followed in the case of Jesus. It

is clear that one or other manner must have been selected in accordance with the physical condition of the victim and the dimensions of the cross. It was the need for making an example which determined whether this instrument of exemplary punishment should be more or less lofty, or whether it should be erected in one place rather than another. Suetonius informs us that Galba, wishing to add greater infamy to the punishment of a guardian who had poisoned his ward, had the cross which had already been assigned him changed for one of greater height, and that this new cross was painted white.[37] Cicero and Quintilian assert that crosses were erected even along the most frequented highways, as, for example, along the *Via Pompeia*, in order that many people might see them.[38] The Roman laws never entered into minute details. They were not overcharged with regulations, appendices, and illustrative additions, as is the case with our splendid and opulent legislation. It is therefore useless to seek for infinitesimal particulars in this direction.

The Evangelists do not furnish us with the slightest information as to the actual manner of crucifixion in the case of Jesus. They confine themselves to the statement that He was crucified upon Golgotha, and that subsequently two malefactors were crucified, one on either side.[39] Such Fathers of the Church, however, as lived before Constantine, and may themselves have witnessed Roman crucifixions, are urgent in insisting that the hands and feet of Jesus must have been nailed.[40] Orthodox writers have subsequently laid much stress upon defending this detail for the sole reason that heterodox writers have been equally set upon denying it.[41] In the piercing of the hands and feet the former noted the fulfilment of a Messianic prophecy which the latter were anxious to confute. Plautus, who is unbiassed in the

matter under dispute, apparently confirms the orthodox writers.[42]

According to a usage which applies not only to this, but to every other case of Roman capital punishment, a superscription stating the reason of His condemnation was written at the summit of the cross above the head of Jesus.[43] As a matter of fact, custom required that a document of this kind should be carried by the condemned prisoner himself. Suetonius relates that Caligula handed over to the executioner a slave who during a banquet had purloined a silver knife. The slave's hands were cut off and hung about his neck, and he was led round all the tables, while before him was carried a placard stating his crime. Suetonius also tells us that Domitian had a father of a family, who had spoken of a gladiator without due admiration, led down the steps into the arena and cast to the dogs, with the writing, "A palm-bearer irreverent to his ruler."[44] In the same way, Jesus on leaving the Prætorium must either have carried the statement of his sentence hung about His neck, or this must have been borne by Simon of Cyrene or some one else in the procession.[45] The placarding of the cross was perhaps meant to make up for negligence in this respect.

The superscription ran: "JESUS OF NAZARETH KING OF THE JEWS."[46] It was couched in three languages—Hebrew, Greek, and Latin.[47] Hebrew was the national idiom; Greek was the universal tongue, spoken all over the then civilised world; Latin was the official language of the judicial and executive power, and was in this case employed expressly by reason of the official character of the event, and not in order to give the inscription wider publicity.[48] Nobody outside the suite of the Roman Governor can have been acquainted with Latin. It was by the Governor that the inscription

was dictated, and it embodied a final stroke of sarcasm against the detested Jews. He harps upon the constant theme of *rex vester*, which he had already employed when asking them whether he must really crucify their King. They understood the irony, and they asked the Governor that he should not write "King of the Jews," but "He said, 'I am King of the Jews.'" But Pilate stood firm to his insulting sarcasm, and answered in tones of weariness and disdain, "What I have written, I have written." [49]

The sequence of these last events again proves that the martyrdom of Jesus was, as of necessity it must have been, a judicial action exclusively of Roman authority. Crucifixion was one of the ornaments and treasures of Roman and not of Mosaic law; to the power of Rome and not of Judæa belonged the tender and merciful executioners; the superscription recording the just and wise condemnation originated with the Cæsarian procurator and not with the Jewish Sanhedrin. If a sentence had been passed by the Jews in the Sanhedrin, instead of a mere accusation, it would have had blasphemy, not sedition, as its ground. The charge of sedition was debated but finally rejected by the Sanhedrin, which unanimously and exclusively reverted to the first charge, declaring Jesus worthy of death solely because He had blasphemed in proclaiming Himself not the King of the Jews—but the Son of God. In this superscription, for all its irony and scorn, there is obviously contained the declaration of a crime of sedition.

This declaration was not made by Pontius Pilate, but he made no other. Yet he delivered Jesus up to be crucified. He must, therefore, have mentally and definitely supposed some offence as a foundation, however unjust, for his delivery of Jesus. This offence is pre-

cisely that which he himself had fixed, in his laconic style, at the head of the cross. If, instead of giving play to irony up to the very last, he had thought out the motives of the delivery, which was equivalent to a sentence, he would have pronounced a condemnation for sedition or *lèse majesté*. This was the only possible description which, according to the Roman law, could be applied to the crime of which Jesus was vociferously accused, but which Pilate would not believe. Although beyond the confines of the Empire,[50] it was Roman law which Pilate was bound to administer, and necessarily did administer. In its regard for the safety of the State, which is the dominating idea of the political constitution of Rome, the law was particularly severe against crimes of this character. Every usurpation of the privileges pertaining to the sovereign power was punished with death; and a like penalty was meted out to all actions imperilling the integrity or the security of the nation. To the death penalty was joined confiscation of goods and the condemnation of the prisoner's memory.[51] Thus, if it was desired to consummate an act of injustice against Jesus, it would not have been difficult to cloak it in legal form.

Meanwhile the guiltless Victim had been fastened to the wood of the cross and was beginning to taste of all the bitterness of martyrdom.

It was customary among the Jews to prepare an aromatic beverage for the condemned in order to alleviate their suffering and benumb their intelligence.[52] And from the beginning such comfort was offered to Jesus. But He refused it. According to one of the Evangelists, it consisted of wine mixed with myrrh; according to another, it was vinegar and gall.[53] It was certainly not the Roman executioners who had recourse to this merciful custom. Perhaps it was the pious women who

wept near the cross who thought of the act of pity, peculiar to their people, although on this occasion the execution was foreign in initiative and in nature. However, from the mention made of it by the Evangelists, it may be inferred that this beverage was nothing but the drink which the soldiers had with them. If this was the case, all that the women did was to beg leave of the Roman guard to moisten the lips of Jesus.[54]

Jesus had been stripped of his garments.[55] The executioners claimed the right of dividing them among themselves. The spoils of prisoners condemned to death (*pannicularia*)[56] belonged always to the executioners, in virtue of a right sanctioned by an explicit provision of Roman law. In the particular case of Jesus, the clothes were probably the *taleth*, a cloak, a shirt, a girdle, and shoes. The men entrusted with the carrying out of the sentence were four in number. After dividing the garments into a corresponding number of parts, they cast lots for the possession of them.[57] Having done this, they took up their places close to the three crosses in order to keep watch.

The crowd looked on with that complacent curiosity with which a mass of people is wont to contemplate the most heartrending details of a catastrophe, be it a terrible conflagration or an unusual form of death. Some of the passers-by shook their heads and railed at the one of the three dying men who at least should have excited the greatest pity. First one gibe was flung at him, and then another. And they said:

"Ha! Thou that destroyest the temple, and buildest it in three days, save Thyself and come down from the cross."

The priests, elders, and scribes could find no happier sarcasm than that of the crowd:

"He saved others; Himself He cannot save. Let the

Christ, the King of Israel, now come down from the cross, that we may see and believe."

The executioners themselves, although they had little care for the reason of punishment, read the Latin words upon the superscription, and from the imitative instinct of brutality repeated:

"If Thou art the King of the Jews, save Thyself."

Even one of the two malefactors who had been crucified with Him turned his head towards Him amidst his agony, and said:

"Art not Thou the Christ? Save Thyself and us."

A miracle was what they wanted and what they awaited; a visible, real miracle. And this, in the very end, is the explanation of the delusion and contempt of the people. One man alone—and he indeed was one of the two sharers in this infamy—had the wisdom at all events in his utter anguish to conceive the possibility of some intangible miracle not of this world.

First he rebuked his companion:

"Dost thou not even fear God, seeing thou art in the same condemnation? And we indeed justly; for we receive the due reward of our deeds: but this man hath done nothing amiss." And then, turning towards Jesus, he said:

"Jesus, remember me when Thou comest into Thy Kingdom." [58]

The sweetness, the serenity, the prayer for pardon uttered to the Father, must have touched the unhappy evil-doer; for Jesus in His first words spoken from the cross had said:

"Father, forgive them, for they know not what they do" [59]—a sublime utterance which raises the purity and the dignity of the sacrifice far above the irresponsibility and brutality of might taking the place of right.

Other words which He let fall were taken up by the

crowd in evident derision, although with pretended understanding. He said:

"Eloi, Eloi, lama sabachthani?" These words were in the Aramaic language, spoken by Jesus and the majority of the spectators. They meant: "My God, My God, why hast Thou forsaken Me?" [60]

But the people made play upon the sound of the words. They pretended to understand that He called upon Elias, and they cried:

"Let be; let us see whether Elias cometh to take Him down."

The fever of martyrdom gave Him yet other words:

"I thirst."

But this time it was not the aromatic and comforting drink made by Jewish women, but the bitter liquor of the Roman soldiery, that was given Him in mockery. One of the soldiers dipped a sponge in a vessel, fixed it on the end of a reed, and thrust it towards Jesus who murmured:

"It is finished." [61]

And what indeed remained for the Man of Sorrows to endure? He had drunk the cup of bitterness to the dregs, and in the calm utterance of His anguish He might repeat the words of the Psalm foreshadowing the tragedy. Unless indeed in their relation of His dying words the Evangelists remembered David rather than Jesus, He repeated the lines of the Psalmist almost word for word: [62]

"My God, my God, look upon me; why hast Thou forsaken me; and art so far from my health, and from the words of my complaint?

"I am . . . a very scorn of men, and the outcast of the people.

"All they that see me laugh me to scorn; they shoot out their lips, and shake their heads.

"I am poured out like water, and all my bones are out of joint: my heart also in the midst of my body is even like melting wax.

"My strength is dried up like a potsherd . . . and Thou shalt bring me into the dust of death.

"For many dogs are come about me, and the council of the wicked layeth siege against me.

"They pierced my hands and my feet; I may tell all my bones: they stand staring and looking upon me.

"They part my garments among them, and cast lots upon my vesture.

"But be not Thou far from me, O Lord; Thou art my succour; haste Thee to help me."

The Romans were in the habit of hastening the death of the crucified by breaking their legs with blows from a mace or mallet (*crurifragium*). It is not quite certain, but it may be conjectured that the same end was attained more thoroughly by running the prisoners through the breast.[63] Crucifixion only killed slowly. The loss of blood from the hands and feet was very soon arrested, and rarely proved fatal. The cause of death was the forced tension of the limbs, which produced rigour of the whole body, and led to a fatal derangement of the circulation. Some prisoners taken down from the cross and attended to betimes, returned to life.[64] Others remained for three or four days on the gibbet.[65] Many of hardy constitution perished from hunger.[66] The *coup de grâce* was thus useful, sometimes even necessary. In the particular case of the three of Golgotha, the Jews had double reason for requesting that death should be hastened. In the first place, their custom did not allow of a corpse being left hanging from the gallows beyond the evening.[67] Secondly, the holy Sabbath could not be disturbed by such a spectacle.[68] On these accounts they went and begged

Pilate to give assent to the breaking of the legs of the crucified. The soldiers proceeded to carry out this operation upon the two malefactors. When they arrived at Jesus, He was already dead.[69] After three hours of agony, calm and serene He had closed His brief years of life, and brought His task of untold centuries to an end.

Mid-day of April 7 [70] was three hours past when Jesus lifted His thought to the Father to commend to Him the soul that was breaking free from the martyred body. And to this thought He devoted His last word.

And He bowed His head and gave up His Spirit. All of Him that was human was finished.

The cross of His martyrdom will stand fixed for ever upon the crowning summit of injustice, cupidity, and civil falsehood, a symbol of eternal reprobation and of regeneration without limit. So much so, that in comparison with the imperishable wood of the cross, fire and iron will become worthless trash.

The world of His day was bent on sights of wantonness and blood in other quarters. It marked not that which befell Him in an unknown corner of the East; but before long it grew conscious of a new law counting up the deeds and destinies of man. It saw that truths drawn from the fount of Nazareth were watering the earth, and that the tree which had borne no good fruit was rooted up.

Vainly through nineteen centuries have panic-smitten legislators, or innovators overbold, striven to write or to invoke a law which shall be equal to that inscribed in blood upon the cross. When the Martyr of Golgotha gave man this precept, "Love thy neighbour as thyself, and do not unto others that which thou wouldst not they should do unto thee," He did not only point to and illumine the inscrutable ways of Heaven, but He grasped and ennobled the most savage and powerful

law of earth—that is to say, selfishness—and exalted it to a virtue and indefeasible rule of solidarity and social justice. And when to men bound together by the cords of such justice, without limits in its power and its scope, He announced the "Kingdom of God is in you," He founded a divine kingdom upon earth, which has neither sovereigns nor subjects, neither victims nor rebels, neither barriers nor boundaries, which has a single sceptre in every will that is master of its own purposes, which has a throne in every soul capable of its own destinies; a kingdom perfect and secure, if not happy and blessed; in which swords will be transformed into ploughshares, and lances into sickles, and the sovereignty of man will be inaugurated, free and unrestrainable by any authority and any discipline, in accordance with the incalculable value of its own nature and the infinite progress of its perfection.

Nineteen centuries will not again go by before either the cross of Golgotha shall become once and for ever the emblem of victory, or man, born to strife, shall sink, vanquished eternally in the secular struggle for his redemption.

NOTES

[1] S. Matthew xxvii. 31 *et seq.*; S. Mark xv. 20 *et seq.*; S. Luke xxiii. 25 *et seq.*; S. John xix. 16 *et seq.*

[2] The road which led to Calvary was practically the same which goes to-day by the name of *Via dolorosa* (cf. Serao, *Nel paese di Gesù*, Naples, 1902, p. 128 *et seq.*). This road runs through the whole of the lower city or Acra, crosses the Low Street, which Josephus calls the Valley of the Tyropeon, and which separates Acra from Gareb, and mounts by a fairly rapid slope to the gate of Ephraim (Didon, *Jésus-Christ*, ch. xi.). Plutarch, *De sera num. vind.* 19; Artemidorus, *Onirocr.* cap. ii. 56.

[3] S. Mark xv. 21. This Evangelist alone (but his text is perhaps, as is now-a-days believed, the most ancient and most authoritative) names Alexander and Rufus as sons of Simon. From the manner and context in which they are mentioned, it is argued that they must have been fairly well known to the first Christians. Of a Rufus, perhaps the same, there is mention in the Epistle to the Romans (xvi. 13), and an Alexander, perhaps the brother of Rufus, is spoken of in the Acts of the Apostles (xix. 33). The subsequent tradition with regard to Simon and his wife comes only from the Fathers of the Church (Maldonatus, *Ad. h. l.*). Didon follows this tradition, but at the same time consigns to a note the passage: "If a Roman soldier lay upon thee some heavier service, resist not, nor murmur; if thou dost, thou shalt be beaten" (*J.-C.* ch. ii.). This would also mean that Simon was to make virtue of a necessity. The ancient geographers (Strabo, xvii; Pliny, *Hist. nat.* v. 5; Pomponius Mela) name three Cyrenes, one in Libya, another in Palestine, and a third in Cyprus. It is generally held that Simon belonged to Libya.

[4] S. Matthew calls them "robbers" (Vulgate *latrones*: *i.e.* highwaymen), xxvii. 38. Thus also S. Mark (xv. 22). S. John merely mentions "two others" (xix. 18). S. Luke speaks once of "two other" (xxiii. 32), and once of "robbers" (xxiii. 39). The names Gisma and Disma, also Moab and Zabdi, assigned to these two malefactors, are not in the Gospels, and are derived only from fanciful tradition.

[5] S. Matthew xxvii. 55, 56, 61; S. Mark xv. 40, 41, 47, xvi. 1; S. Luke xxiii. 27, 28, 49; xxiv. 10; S. John xix. 25.

[6] Didon, *Jésus-Christ*, ch. ii.

[7] S. John xix. 26, 27. The Evangelist mentions here also the commendation to him by the Master of His mother.

[8] S. Luke xxiii. 28-31.

[9] S. Matthew: "Golgotha, that is to say the place of a skull" (xxvii. 33); also S. Mark (xv. 22); and S. Luke (xxiii. 33). S. John: "And he went out . . . unto the place called the place of a skull, which is called in Hebrew Golgotha" (xix. 17). Cf. Gesenius, *Lex.* etc. p. 190. There are some who suppose that the name of the place was derived from the use to which it was put, and from the skulls and skeletons of executed prisoners

there to be seen (Winer, *Bibl. Realwörterbuch*, art. *Golgotha*: Paulus and Fritzsche, quoted by Strauss, *Vie*, par. 132). An etymology of this kind appears to me in contradiction to the rigorous care which the Jews devoted to the burying of human remains, which were sources of pollution; so that such remains could hardly have been visible, as the commentators quoted believe. Eusebius, Sozomenus, and S. Jerome say that a temple to Venus was built upon Golgotha by Hadrian. For a modern guide to Calvary, cf. Serao, *Nel paese di Gesù* (Naples, 1902), p. 128 *et seq.* The place was within twenty steps of the city wall, which at this point formed a re-entrant angle, and within this triangular area the execution must have been carried out. Close by passed the road to Samaria through the midst of olive plantations, among which the rich families had their tombs excavated.

[10] Cicero, *Verr.* v. 64: "Crudelissimum teterrimumque."

[11] Josephus, *De bello judaico*, lib. i. cap. iv. n. 6. The deed is attributed to Alexander, one of the Asmoneans, who perhaps crucified eight hundred prisoners. Eight hundred appears really too many. And so must have thought Josephus, who guards his statement with a "perhaps."

[12] Genesis xl. 19: "Pharaoh shall lift up thy head from off thee, and shall hang thee on a tree, and the birds shall eat thy flesh from off thee." As is clear from this text, crucifixion must in this case have been a posthumous punishment of the corpses of prisoners who had already been beheaded, and not a mode of death. Cf. *Jerem. Thr.* v. 12; 1 Kings xxxi. 10.

[13] Esther vii. 10: "So they hanged Haman on the gallows that he had prepared for Mordecai." Here the cross is a mode of execution by itself. And that the *hanging* prepared by Haman for Mordecai and applied by Mordecai to Haman was crucifixion proper, follows from the succeeding passage in the same book (viii. 7).

[14] Plautus, *Mostellaria*, ii. 1, 13; Lucan, *Pharsalia*, vi. 543, 547; Xenophon of Ephesus, *Ephesiaca*, iv. 2; Juvenal, 6, 5; Valerius Maximus, 2, 7, 12; Quintilian, *Declam.* 275; Lucian, *Jud. voc.* 12; Justin, *Dial. cum Tryph.* 97; Tertullian, *Adv. Marcionem*, iii. 19.

[15] Josephus, *De bello jud.* v. ii. 1, 2; *Antiq. jud.* xx. vi. 2.

[16] Paul, *Sent.* 5, 3, 1: "Extra ordinem vindicatur." *Ibid.* 5, 4, par. 1: "Nostra interest vindicare." *Ibid.* par. 4, par. 7: "Furis inruentis consilium vindicetur." Gai. 3, 217: "Damnum iniuria vindicatur." l. 131, pr. Dig. L. 16: "Pœna est noxæ vindicta." l. 1, Cod. i. 1: "Divina primum vindicta, post etiam motus animi nostri, quem ex cælesti arbitrio sumpserimus ultione plectendis." *Ibid.* l. 9, ii. 11: "Temerarie commissa congrua ultione plectantur." *Ibid.* 9, ii. 11: "Ob ultionem publicam obnoxius legibus fiat." The good thief himself, who was crucified by the side of Jesus, appears to refer to the principle of just retribution when he says: "And we indeed justly, for we receive the due reward of our deeds" (S. Luke xxiii. 41).

[17] Dig. 48, 19, 20: "Pœna constituitur in emendationem hominum." Nov. 8, 8; Nov. 12, 1; Nov. 17, 5; Nov. 25, 2; Nov. 30, 11; *Collatio* 1, 11, 2: "Ut ceteri eiusdem ætatis iuvenes emendarentur."

[18] Cod. ix. 27, 1: "Unius pœna metus possit esse multorum." *Ibid.* i. 11, 7: "Ut hac legis nostræ severitate perterriti metu pœnæ desinant sacrificia interdicta celebrare." The *magnum competens exemplum* is the marking feature of all chastisement. Dig. 49, 16, 8, par. 3: "Propter exemplum capite puniendus est." Nov. *Maior*, ix: "Ut competenti luxuria castigata ab expugnatione pudicitiæ." Nov. Theod. xviii; *Coll.* 51, 7, 1; l. 17, par. 10, Dig. xlviii. 19.

[19] Paul, *Sent.* 5, 1*a*, par. 6: "Alterum utilitas privatorum, alterum vigor publicæ disciplinæ postulat." *Ibid.* 5, 6, par. 15: "Interest publicæ disciplinæ opinionen uniuscuiusque a turpis carminis infamia vindicare." Cod. ix. 2, 10: "Contra disciplinam publicam." Cod. ix. 30, 1; Dig. 1, 11, 1 pr.; Nov. 2; C. Th. iv. 33, 1; xvi. 8, 21.

[20] *Inferno*, xxviii. 142.

[21] Nov. 8, 8; see note 18.

[22] Livy, i. 26; Cicero, *Pro Rabirio*, 4. The Latins properly called *arbores infelices* trees abominated by religion, such as are not sown and yield no fruit—the poplar and elm, for instance (Pliny, *Hist. nat.* lib. xxvi.) The punishment which went by this name was preceded by scourging.

[23] Cicero, *Pro Rabirio*, 3; Terence, *Eunuchus*, 2, 3, 91; Plautus, *Aulularia*, 3, 5, 46; Columella, in Gesen. *Lex.* 1, 7.

[24] Apuleius, *Metam.* 10; Ammianus, in Gesen. *Lex.* 9, 2.

[25] Tertullian, *Ap.* viii. 16.

[26] Cicero, *De div.* i. 26; Plautus *Miles glor.* 2, 4, 7; Tacitus, *Ann.* 14, 33.

[27] Cf. Pothier, xlviii.; xix. 4.

[28] Isidorus, *Orig.* v. 27.

[29] Lipsius, *De cruce* 1, 3.

[30] *Pro Rabirio*, 4, 10.

[31] Paul, *Sent.* lib. v. tit. 14, par. 19: "Summa supplicia sunt Crux, Crematio, Decollatio." To lessen the ignominy it was sometimes carried out in prison. Cf. Valerius Maximus, viii. 4, 2.

[32] Irenæus, among the writers least removed in point of time from the crucifixion of Jesus, declares that the cross had four extremities (*Advers. hæret.* ii. 24, 4). In a magnificent picture of the *quattro-cento* attributed to Pesellino, which is to be seen (but who indeed sees the real miracles of art?) in the church of S. Donnino at Brozzi near Florence, there is depicted a cross; the superscription is fixed above the transverse beam by means of a little staff planted in the extremity. This is an involuntary but tasteful objection to the presumed form of the cross inferred from the placing of the superscription upon the upper portion of the vertical beam. If the courageous old painter of the "little staff," forgotten though he is, were made the object of polemics, he might rightly rejoin that the *immissa* or *capitata* variety of the cross might very well be assumed in the case of Jesus, as we have records that it was Roman. In order to lessen the ignominy, the early Christian adopted various symbolic signs for the cross (*infamis stipes*), viz. the trident, an upright hammer, the Greek or Latin T, or sometimes the Greek *gamma*, Γ. Isidoro Carini, in his work on the *Passione di Cristo*, describes the main phases of Christian art with respect to the worship of the cross and of Christ. He begins with the symbolic period when the cross is dissimulated under the various forms above mentioned. Next comes the period of the "bare cross" accompanied by the symbol of the sacrificed lamb. And finally we reach the cross with the name of Christ by itself and with Christ nailed upon it. At the beginning Christ is clothed in a long tunic, called the *colobium*; the tunic is then shortened, and finally it is replaced by the cloth about the loins called

by the Greek term *perizoma*. Cf. Vignon, *Le linceul du Christ: étude scientifique*, Paris, 1902; Garrucci, *Storia dell' arte Cristiana*, vol. i., Prato, 1881; Gatti, *Album G. B. De Rossi*, Rome, 1902. In this last work, written in honour of the seventieth birthday of G. B. De Rossi, the famous leader of Christian archæological studies, are gathered together papers by Waal, Kraus, Batiffol, Eudres, Armellini, Marucchi, Scagliori, and others, all of them with relation to ancient Christian art.

[33] Irenæus, *Adv. hæret*, ii. 42.

[34] Justin, *Dial. cum Tryph.* 91; Tertullian, *Ad. nat.* i. 12.

[35] Seneca, Ep. 101: "Hanc (vitam) mihi, vel acuta si sedeam cruce, sustine."

[36] The fancy of certain people led necessarily to discussions as to the variety of wood out of which the cross of Jesus was made. Calvin remarked that the wood itself had so multiplied that were it united there would be enough to load a ship. S. Bernard said that it was of four kinds, cyprus, cedar, olive, and palm (in *Cant.* vii. 8). On the other hand, Decaisne and Savi declare that they have examined under the microscope certain particles of the supposed relics of the cross which are in the Cathedral of Pisa, the Duomo at Florence, Notre Dame de Paris, and in the Basilica of the Holy Cross in Jerusalem, and they have discovered that they all belong to the same species of wood, viz. pine.

[37] *Galba*, 9.

[38] Cicero, *Verr.* v. 66: "More atque instituto suo crucem (Mamertini) fixerunt . . . in via Pompeia." Quintilian, *Declam.* 275: "Quotiens noxios crucifigimus, celeberrimæ eliguntur viæ, ubi plurimi intueri, plurimi commoveri hoc metu possint."

[39] S. Matthew xxvii. 35, 38; S. Mark xv. 24, 25, 27; S. Luke xxiii. 33; S. John xix. 18. A book with an alluring title but of no authority is *La Mort de Jésus: Révélations historiques sur le véritable genre de mort de Jésus, traduit du latin d'après le manuscrit d'un frère de l'ordre sacré des Esseniens, contemporain de Jésus*, par D. Ramée (Paris, Dentu, 1863).

[40] Justin, *Dial. cum Tryph.* 97; Tertullian, *Adv. Marcionem*, 3, 19.

[41] Psalm xxi. 16: "And they pierced my hands and feet." Cf. Strauss, *Vie*, par. 132.

[42] Mostellaria, 2, 1: "Affigantur bis pedes, bis brachia." Nat-

urally fancy has also fixed upon the number of nails employed by the crucifiers of the Nazarene. Latin tradition supposes it to have been three, assigning one only to the feet; Greek tradition and S. Gregory of Tours would have that there were four. Others put more, according to the amount they have.

[43] S. Mark declares explicitly that the writing was the *superscription* of accusation (xv. 26). S. Matthew calls it his "accusation written" (xxvii. 32). S. Luke speaks merely of a superscription (xxiii. 38), S. John of a "title" (xix. 19).

[44] *Caligula*, 32: "Præcedente titulo qui causam pœnæ indicaret." *Domitian*, 10: "Cum hoc titulo; impie locutus parmularius."

[45] Bonghi rightly adopts the fact, but whence he takes it I do not know, that the *titulus* was carried by Jesus, Simon, or some one else (*Vita di Gesù*, p. 286).

[46] Thus in S. John, "Jesus of Nazareth the King of the Jews" (xix. 19). Cf. S. Matthew, "This is Jesus the King of the Jews" (xxvii. 37); S. Mark, "King of the Jews" (xv. 26); S. Luke, "This is the King of the Jews" (xxiii. 38).

[47] S. Luke xxiii. 38; S. John xix. 20.

[48] S. John xix. 19: "And Pilate wrote a title also and put it on the cross."

[49] S. John xix. 21, 22.

[50] For the necessity of such an application in a Roman province, see chap. x. note 13, and chap. xxi. note 10.

[51] Cf. upon the *Crimen maiestatis* and *Seditio*, Ferrini, *Dir. pen. Rom.* chap. xi. p. 252 *et seq.*

[52] *Babyl. Sanhedrin*, f. 43, 1: Dixit, R. Chaja, f. 3. Ascher, dixisse R. Chasdam: "Exeunti, ut capite plectatur, dant bibendum granum turis in poculo vini, ut alienetur mens ejus, sec. d. Prov. 31, 6: Date siceram pereunti et vinum amarissimum."

[53] S. Matthew xxvii. 34: "They gave Him wine to drink mingled with gall." S. Mark xv. 23; "And they offered Him wine mingled with myrrh." Certain authors indeed, among whom is Langen quoted by Didon, relate that the ancient naturalists Dioscorides and Galen attributed a calming effect to incense and myrrh (*J.-Christ*, ch. ii.). The other two Evangelists do not speak of any drink at this point. They speak of such later on, and in agreement with the two first, when Jesus said, "I thirst."

[54] Spartianus, *Hadrian.* 10; Vulcarius, *Ovid.* 5; Plautus, *Miles glor.* 3, 2, 23; Ibid. *Trucul.* 2, 7, 48.

[55] Artemidorus, *Oniroer.* ii. 53.

[56] L. 6, Dig. *De bonis damnatorum*, xlvii. 20.

[57] S. Matthew xxvii. 35; S. Mark xv. 24; S. Luke xxiii. 34; S. John xix. 23, 24. The detail as to the number of the soldiers (perhaps he refers expressly to those charged with the execution) is given only by S. John; and by him also alone is given the detail that the tunic was cast lots for and not divided among the soldiers.

[58] S. Luke xxiii. 39, 43. This episode is suppressed by the other three Evangelists. S. Matthew (xxvii. 14) and S. Mark (xv. 32) say that the two malefactors also reviled Jesus; S. John does not mention this, although he does not neglect the presence of the "two others" at the crucifixion (xix. 18).

[59] S. Luke xxiii. 33. The other Evangelists pass over these words, likely enough in the mouth of Jesus.

[60] S. Matthew xxvii. 45-8; S. Mark xv. 34-6. S. Luke and S. John pass over this particular, which bears the impress of one, unlike others of Messianic foundation, which has been really felt and not part of a trumped-up story. Didon believes seriously that there was a misunderstanding, and deduces evidence therefor, showing that among the pilgrims gathered at Jerusalem for the Passover there must have been Greek and Roman strangers, who understood neither Hebrew, Armenian, nor Syro-Chaldaic (*J.-Christ*, ch. ii.). In reality, if these words were uttered in Aramaic, the great majority of those present should have understood them.

[61] The last words of Jesus are usually gathered together from the context of the Gospels; each one of these, taken by itself, is incomplete and even contradictory with regard to the others in certain details. For example, S. John puts into Jesus' mouth the words "I thirst," which are passed over by the Synoptics; these place the second drinking incident at the point of the exclamation "Eloi, Eloi," whereas S. John omits this exclamation, but places the incident of the beverage at the time of the words "I thirst."

[62] Psalm xxii. 1, 6, 7, 14-19. Cf. the fine unpublished translation from the Hebrew, quoted by Didon (*J.-Christ*, ch. ii.) of

which the author is P. Scheil. Here the Prayer-book version is given, and the passages only in which the Evangelists show the Messianic coincidence contained in the prophecy of this Psalm, and not only the last words, but also the last events of the Passion of Jesus.

[63] Seneca, *De ira*, iii. 32; Suetonius, *Octav.* 67; Lactantius, *Instit.*; Lipsius, *De cruce*, lib. ii. c. 14, lib. iii. c. 14; Plautus, *Pœnulus*, 4, 2, 64. Renan cites the passage from Ibn-Hischâm translated in the *Zeitschrift für die Kunde des Morgenlandes* i. 99 (*Vie*, ch. xxvi.).

[64] Herodotus, vii. 194; Josephus, *Vita*, 65.

[65] Petronius, *Sat.* cxi; Origen, *In Matt. Comment. series*, 140.

[66] Eusebius, *Hist. eccles.* viii. 8; cf. Renan, *Vie*, ch. xxv.

[67] Joshua, viii. 29, x. 26; Mishna, *Sanhedrin*, vi. 5. Renan says that this prohibition had its origin in the law; but in the Pentateuch any such provision is wanting, and the passage of Joshua only mentions a special enactment. The *Sanhedrin* is the work of the Talmudists, and therefore not contemporary with Jesus.

[68] S. John xix. 31; Philo, *In Flaccum*, par. 10.

[69] S. John xix. 31-3.

[70] S. Matthew xxvii. 45, 46, 50; S. Mark xv. 25, 33, 34, 37; S. Luke xix. 13, 14. The divergence between the passages of the Gospel with regard to the hour of death of Jesus is evident and irreconcilable. The most acceptable hypothesis seems to be that of the ninth hour of the Hebrews, which answers to our 3 p.m.

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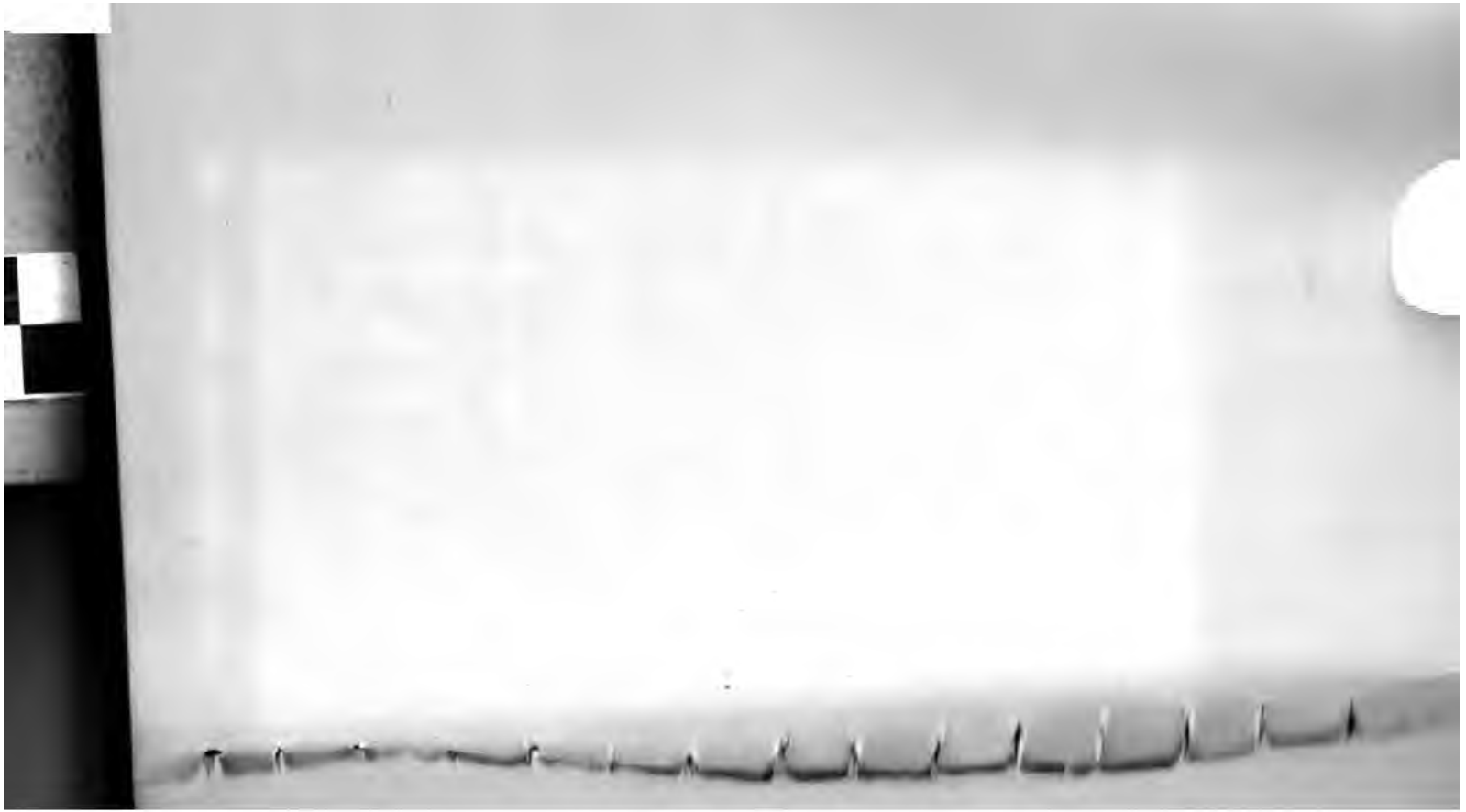
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